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Illinois Register

Rules of Governmental Agencies

Volume 23, Issue 45 — November 05, 1999

Pages 13,285 – 13,437

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April 16, 1999 - Issue 16: Through	March 31, 1999
July 16, 1999 - Issue 29: Through	June 30, 1999
October 15, 1999 - Issue 42: Through	September 30, 1999
January 21, 2000 - Issue 3: Through	December 31, 1999 (Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1999

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 21, 1998	January 4, 1999 *	Issue 28	June 28	July 9
Issue 2	December 28	January 8	Issue 29	July 6 ***	July 16
Issue 3	January 4, 1999	January 15	Issue 30	July 12	July 23
Issue 4	January 11	January 22	Issue 31	July 19	July 30
Issue 5	January 19	January 29	Issue 32	July 26	August 6
Issue 6	January 25	February 5	Issue 33	August 2	August 13
Issue 7	February 1	February 16	Issue 34	August 9	August 20
Issue 8	February 8	February 19 **	Issue 35	August 16	August 27
Issue 9	February 16 ***	February 26	Issue 36	August 23	September 3
Issue 10	February 22	March 5	Issue 37	August 30	September 10
Issue 11	March 1	March 12	Issue 38	September 7 ***	September 17
Issue 12	March 8	March 19	Issue 39	September 13	September 24
Issue 13	March 15	March 26	Issue 40	September 20	October 1
Issue 14	March 22	April 2	Issue 41	September 27	October 8
Issue 15	March 29	April 9	Issue 42	October 4	October 15
Issue 16	April 5	April 16	Issue 44	October 12 ***	October 22
Issue 17	April 12	April 23	Issue 43	October 18	October 29
Issue 18	April 19	April 30	Issue 44	October 25	November 5
Issue 19	April 26	May 7	Issue 45	November 1	November 12
Issue 20	May 3	May 14	Issue 46	November 8	November 19
Issue 21	May 10	May 21	Issue 47	November 15	November 29 *
Issue 22	May 17	May 28	Issue 48	November 22	December 3
Issue 23	May 24	June 4	Issue 49	November 29	December 10
Issue 24	June 1 ***	June 11	Issue 50	December 6	December 17
Issue 25	June 7	June 18	Issue 51	December 13	December 24
Issue 26	June 14	June 25	Issue 52	December 20	December 31
Issue 27	June 21	July 2	Issue 1	December 27	January 7, 2000

* Monday following a state holiday.

** Tuesday following a state holiday.

*** Since the state holiday is a Monday, the deadline is Noon on Tuesday.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers: Proposed Action:
310.280 Amend
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 5) A Complete Description of the Subjects and Issues Involved:

In Section 310.280, Designated Rate, the following updates reflect changes that were previously approved by the Governor:

In the Department of Commerce and Community Affairs, the Public Information Officer IV position's annual salary is being changed from \$59,184 to \$62,256, effective August 1, 1999.

A Private Secretary II (34202-50-19-000-00-01) with an annual salary of \$49,008 is being added for the Illinois State and Local Labor Relations Board, effective April 1, 1999.

In the Department of Human Services, a Senior Public Service Administrator (40070-10-65-000-00-01) with an annual salary of \$105,475 is being added, effective July 16, 1999.

In the Department of Insurance, the Senior Public Service Administrator (40070-14-00-000-00-06) is being deleted from the Designated Rate Section, effective September 1, 1999.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain any incorporations by reference? No
- 9) Are there any proposed amendments pending to this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
310.230	Amend	23 Ill. Reg. 6720
310.110	Amend	23 Ill. Reg. 7820
310.130	Amend	23 Ill. Reg. 7820
310.290	Amend	23 Ill. Reg. 7820
310.530	Amend	23 Ill. Reg. 7820
310.540	Amend	23 Ill. Reg. 7820

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 310.Appendix B Amend 23 Ill. Reg. 7820
- 310.Appendix C Amend 23 Ill. Reg. 7820
- 310.Appendix D Amend 23 Ill. Reg. 7820
- 310.Appendix G Amend 23 Ill. Reg. 7820
- 310.230 Amend 23 Ill. Reg. 11750
- 310.270 Amend 23 Ill. Reg. 11750
- 310.Appendix A, Table AA Amend 23 Ill. Reg. 11750

- 10) Statement of Statewide Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
(217) 782-5601

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the proposed amendments begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND

POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes for Fiscal Year 2000
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section	Jurisdiction
310.410	Objectives
310.420	Responsibilities
310.430	Merit Compensation Salary Schedule
310.440	Procedures for Determining Annual Merit Increases
310.450	Intermittent Merit Increase
310.455	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 1999 2000
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APPENDIX A

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TABLE C	HR-200 (Department of Labor - Chicago, Illinois - SEIU) (Repealed)	
TABLE D	RC-069 (Firefighters, AFSCME)	
TABLE E	HR-001 (Teamsters Local #726)	
TABLE F	RC-020 (Teamsters Local #330)	
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TABLE H	RC-045 (Automotive Mechanics, IFPE)	
TABLE I	RC-006 (Corrections Employees, AFSCME)	
TABLE J	RC-009 (Institutional Employees, AFSCME)	
TABLE K	RC-014 (Clerical Employees, AFSCME)	
TABLE L	RC-023 (Registered Nurses, INA)	
TABLE M	RC-008 (Boilermakers)	
TABLE N	RC-110 (Conservation Police Lodge)	
TABLE O	RC-010 (Professional Legal Unit, AFSCME)	
TABLE P	RC-028 (Paraprofessional Human Services Employees, AFSCME)	
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TABLE S	RC-042 (Residual Maintenance Workers, AFSCME)	
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TABLE U	HR-010 (Teachers of Deaf, IFT)	
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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APPENDIX G	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2000

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1986; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 19132, effective October 28, 1986; emergency amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 24 Ill. Reg. _____, effective _____.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART B: SCHEDULE OF RATES

Section 310.280 Designated Rate

The rate of pay for a specific position or class of positions where it is deemed desirable to exclude such from the other requirements of this Pay Plan shall be only as designated by the Governor.

Department of Commerce & Community Affairs

Economic Development Representative II
(Pos. No. 12932-42-35-110-10-02) Annual Salary
54,048

Private Secretary II
(Pos. No. 34202-42-00-000-01-02) Annual Salary
48,492

Public Information Officer IV
(Pos. No. 37004-42-00-005-10-01) Annual Salary
59,184
62,256

Public Service Administrator
(Pos. No. 37015-42-35-140-20-01) Annual Salary
74,508

Department of Insurance

Senior Public Service Administrator
(Pos. No. 40070-14-00-000-00-06) Annual Salary
100,992

Department of Human Services

Medical Administrator I, Option D
(Pos. No. 26401-10-79-006-00-21) Annual Salary
142,368

Public Service Administrator
(Pos. No. 37015-10-23-100-30-01) Annual Salary
70,464

Senior Public Service Administrator
(Pos. No. 40070-10-65-0000-00-01) Annual Salary
105,475

Senior Public Service Administrator
(Pos. No. 40070-10-81-920-00-21) Annual Salary
105,480

Illinois State & Local Labor Relations Board

Private Secretary II
(Pos. No. 34202-50-19-000-00-0) Annual Salary
49,008

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Department of Natural Resources

Administrative Assistant II
(Pos. No. 00502-12-30-000-20-01) Annual Salary
50,520

Department of State Police

Senior Public Service Administrator
(Pos. No. 40070-21-10-000-00-01) Annual Salary
109,358

(Source: Amended at 24 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: School Construction Program

- 2) Code Citation: 23 Ill. Adm. Code 151

- 3) Section Numbers:
- | | |
|---------|-------------------------|
| 151.10 | <u>Proposed Action:</u> |
| 151.20 | Amendment |
| 151.70 | Repeal |
| 151.100 | New Section |
| 151.110 | New Section |
| 151.120 | New Section |
| 151.130 | New Section |
| 151.135 | New Section |
| 151.140 | New Section |

- 4) Statutory Authority: 105 ILCS 230/5

- 5) A Complete Description of the Subjects and Issues Involved: The amendments are being proposed in response to P.A. 91-38, effective June 15, 1999, which amends the School Construction Law. The new provisions establish the school maintenance project grant program and require that the State Board promulgate rules to implement the program. Public school districts, public university laboratory schools approved by the State Board, and charter schools are eligible to apply for school maintenance project grants.

The proposed amendments define the five priority categories established in the law; set forth the application procedures and content; and establish a mechanism, based on the priority categories and applicant's need, for awarding grants when the appropriation is insufficient to fund all approved applications.

This rulemaking also proposes to eliminate the requirements pertaining to debt service grants, since the law prohibits the award of such grants after June 30, 1999.

- 6) Will these proposed amendments replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
151.60	Amendment	23 Ill. Reg. 10916

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 10) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a state mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-284
Springfield, Illinois 62777-0001
(217) 782-3950

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: The governing boards of charter schools or of public university laboratory schools would be affected by this rulemaking, should they seek to apply for a grant.

B) Reporting, bookkeeping or other procedures required for compliance: All eligible applicants must complete the application form to be considered for a grant. Grantees will be required to comply with the accounting practices that are standard for their program.

C) Types of professional skills necessary for compliance: Not applicable

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

CHAPTER 1: STATE BOARD OF EDUCATION

SUBCHAPTER C: FINANCE

PART 151

SCHOOL CONSTRUCTION PROGRAM

SUBPART A: SCHOOL CONSTRUCTION PROJECT GRANTS

Section	Purpose	Grant
151.10	Eligible Applicants	
151.20	Application for School Construction Project Grant Entitlement	
151.30	Application for School Construction Project	
151.35	Entitlement - Districts With A Population Exceeding 500,000	
151.40	Award of Construction Project Grant Entitlement	
151.50	Priority Ranking of Construction Grant Entitlements	
151.55	Needed Capacity for Unit Districts	
151.60	Grant Index	
151.70	Debt Service Grants (Repealed)	

SUBPART B: SCHOOL MAINTENANCE PROJECT GRANTS

Section	Purpose	With a
151.100	Purpose; Eligible Applicants	
151.110	Definitions	
151.120	Application for School Maintenance Project Grants	
151.130	Award of School Maintenance Project Grants - Applicants	
151.135	Population of 500,000 or Fewer	
151.140	Award of School Maintenance Project Grants - School Districts With a	
	Population Exceeding 500,000	
	Terms of the Grant	

AUTHORITY: Implementing the School Construction Law [105 ILCS 230/5] and authorized by Section 5-55 of that Law.

SOURCE: Emergency rules adopted at 22 Ill. Reg. 2616, effective January 16, 1998, for a maximum of 150 days; emergency rules modified in response to JCAR objection at 22 Ill. Reg. 4500; emergency expired June 15, 1998; emergency rules adopted at 22 Ill. Reg. 6238, effective March 24, 1998, for a maximum of 150 days; emergency rules modified in response to JCAR objection at 22 Ill. Reg. 7703; adopted at 22 Ill. Reg. 12538, effective July 6, 1998; emergency amendment at 23 Ill. Reg. 11336, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. _____, effective _____.

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SUBPART A: SCHOOL CONSTRUCTION PROJECT GRANTS

Section 151.10 Purpose

This Subpart Part implements the School Construction Law [105 ILCS 230/5], which requires that the State Board of Education:

- adopt standards under which the State Board will issue grant entitlements to school districts for school construction project grants to be made by the Capital Development Board; and
- determine the order of priority for school construction project grants to be made by the Capital Development Board; and
- make grants to school districts for debt service on approved school construction bonds.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 151.20 Eligible Applicants

School districts that meet the requirements of the School Construction Law and this Subpart Part are eligible to apply for school construction project grant entitlements and debt service grants. A district's eligibility for a school construction project grant under the minimum enrollment requirements of Section 5-25(a) of the School Construction Law shall be determined using the district's enrollment in prekindergarten through grade 12 as shown on the district's most recent Fall Enrollment/Housing

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 151.70 Debt Service Grants (Repealed)

- A school district shall apply for a debt service grant entitlement and award by submitting an application that includes a district facilities plan;
- Each application for a debt service grant for fiscal year 1998 must be received in the Springfield office of the State Board of Education by April 17, 1998. Applications shall be addressed as follows:

Illinois State Board of Education
School Construction Program
100 North First Street
Springfield, Illinois 62777-0001

- For fiscal year 1999, eligibility for a debt service grant shall be contingent upon the State Board's receipt of an application addressed as shown in subsection (b) of this Section by April 15, 1999.
- An application that is incomplete and will not be

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processed-until-it-is-complete--An application must be complete by the applicable filing deadline in order to be considered. All information contained in the application shall be subject to verification and correction by the State Board of Education.

e) Each application shall include the following information:

- 1) the date of the referendum for approved school construction bonds as defined in Section 5-5 of the School Construction Law;
 - 2) A copy of the ballot used at the referendum;
 - 3) A District Facilities Plan that complies with the requirements of Section 151-30(e)(1) through (e)(3) of this Part, unless the District has an approved District Facilities Plan on file with the State Board of Education as evidenced by receipt of a construction grant entitlement, in which case the Plan may be incorporated into the application by reference;
 - 4) A copy of the board resolution issuing the approved school construction bonds and showing the principal amount sold and the date of sale; and
 - 5) A statement of assurance that the debt service grant funds shall be used only to retire principal of approved school construction bonds; restructure the debt service on such bonds; or abate the property taxes levied for the district's bond and interest fund by an amount identical to the amount of the debt service grant.
- f) The State Board of Education shall notify districts that meet the requirements of the School Construction Law and this Part of the amount of their grant awards and shall make grant payments through vouchers submitted to the Comptroller.
- g) The State Board of Education will verify that debt service grant funds have been expended for authorized purposes through review of districts' Annual Financial Reports.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

SUBPART B: SCHOOL MAINTENANCE PROJECT GRANTS

Section 151.100 Purpose; Eligible Applicants

- a) This Subpart implements the School Construction Law [105 ILCS 230/5], which requires that the State Board of Education issue grants for school maintenance projects.
- b) Any school district, charter school, or public university laboratory school approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)] may apply for a grant. An eligible applicant may apply for and receive more than one grant during a fiscal year.

(Source: Added at 24 Ill. Reg. _____, effective _____)

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Section 151.110 Definitions

As used in this Subpart:

"Emergency project" means a project made necessary by a disaster described in Section 5-30(1) of the School Construction Law. Conditions caused by age or lack of timely maintenance shall not constitute an emergency. Costs of an emergency project that are covered by insurance may not be claimed as part of an emergency project.

"Grant" means a school maintenance project grant.

"Health/life safety project" means a project that is necessary to correct a violation of the Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180) or to provide handicapped accessibility or school security.

"Ongoing operational costs" means ordinary maintenance expenses incurred in the course of the applicant's operations, including expenses for employee salaries and benefits, materials, and supplies.

"Other project" means a project other than an emergency project, health/life safety project, State program priority project or permanent improvement project.

"Permanent improvement project" means a project designed to upgrade or install building systems (e.g., air conditioning, electrical or plumbing systems) or involving other improvements to a building or structure so that the building or structure is better adapted to the applicant's educational programs.

"School maintenance project" or "project" means a project, other than a school construction project as defined in Section 5-5 of the School Construction Law, intended to provide for the maintenance or upkeep of buildings or structures for educational purposes, but does not include ongoing operational costs. A project may involve different types of work on a single building or structure, or may involve a single type of work (e.g., new roofing or windows) on several buildings or structures. Work on a project must have started on or after May 1, prior to the fiscal year for which a grant is sought. There is no limit to the cost of a project; however, grant awards shall not exceed \$50,000 per project, and applicants shall provide a match from local funds equal to the grant amount requested.

"State program priority project" means a project that is necessary for

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energy conservation or that adapts a building or structure to better serve students in a specific program for which the applicant receives funding under the School Code (e.g., prekindergarten at-risk, school technology).

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 151.120 Application for School Maintenance Project Grants

- a) An eligible applicant may apply for a grant by submitting an application on a form provided by the State Board of Education. A separate application shall be submitted for each project for which the applicant seeks a grant award.
- b) Up to \$1 million shall be reserved each fiscal year for emergency projects. If funds, other than funds reserved for emergency projects, remain after the award of grants from the announced application cycle, a second application period will be held. If funds reserved for emergency grants remain at the end of the fiscal year, these funds shall be distributed for other approved projects from the latest application cycle.
- c) An application for a grant for an emergency project shall be submitted directly to the State Board of Education by the deadline stipulated on the application. A copy shall also be sent to the regional superintendent of education. Emergency applications shall be submitted to the following address:

Illinois State Board of Education
School Maintenance Project Program
100 North First Street
Springfield, Illinois 62777-0001

- d) All other applications shall be submitted to the regional office of education two weeks prior to the application deadline announced by the State Board of Education for the fiscal year for which the grant is sought. The regional superintendent shall review and forward the applications to the State Board of Education at the address stipulated in subsection (c) of this Section by the application deadline.
- e) An application that is incomplete shall be returned and shall not be processed until it is complete. An application must be complete by the applicable submission deadline in order to be considered. All information contained in the application shall be subject to verification and correction by the State Board of Education by such means as on-site inspection and review of documents.
- f) Each application shall include the following information:
 - 1) The names, addresses, and descriptions of the facilities included in the project;
 - 2) A narrative description of the nature and scope of the project.

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- including the starting and completion dates for the project;
- 3) The total cost of the project, amount and source of local matching funds, and the requested grant amount;
- 4) The priority category of the project (see Section 151.130(b)(2) of this Part).

- A) For an emergency project, the applicant shall indicate the date and nature of the emergency and the extent of building damage.
- B) For a health/life safety project necessary to correct a code violation, the applicant shall identify the health/life safety work by amendment number.
- 5) For applicants that are seeking more than one grant in a fiscal year, the order in which the applicant wants its projects funded.
- 6) Such assurances as the State Board of Education may require, to include at least the following:
 - A) that the local board of education, in the case of school districts, or other school governing authority authorized the school maintenance project during a duly convened meeting, and
 - B) that the local board of education, in the case of school districts, or other school governing authority reserved local funds in an amount equal to the school maintenance project grant requested to meet the local match requirement.
- g) Each application shall bear an original signature of the president of the local board of education or other school governing authority.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 151.130 Award of School Maintenance Project Grants - Applicants With a Population of 500,000 or Fewer

Grant awards to applicants with a population of 500,000 or fewer shall be made as provided in this Section.

- a) An applicant that submits a timely, complete and accurate application that is in compliance with the School Construction Law and this Subpart and that indicates that the applicant has a qualifying project shall be awarded a grant for the approved project provided that the appropriation is sufficient to fund the grant.
- b) If the appropriation for any fiscal year is insufficient to fund all approved projects, grants shall be awarded in the following order until the appropriation is exhausted.
 - 1) Grants shall be awarded in rounds, with each applicant being allowed one approved project per round.
 - 2) Within each round, grants shall be awarded in order of the five priorities established in Section 5-100(b) of the School Construction Law and as defined in Section 151.110 of this Part.

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- A) Emergency projects,
 B) Health/life safety projects,
 C) State priority projects,
 D) Permanent improvement projects,
 E) Other projects.
- 3) Within each priority, grants shall be awarded in order of the applicant's need index, proceeding from greatest to least.
- A) For a school district applicant, the need index shall be determined by dividing the equalized assessed valuation per pupil in average daily attendance of the school district at the 90th percentile of wealth for districts of that type (i.e., elementary, high school, or unit) by the equalized assessed valuation per pupil in average daily attendance of the applicant.
- B) For an applicant that does not possess property taxing authority, its equalized assessed valuation per pupil in average daily attendance shall be that of the school district in which the greatest number of the applicant's students reside.
- C) For purposes of calculating the need index, the equalized assessed valuation and average daily attendance shall be taken from the general state aid claims filed in the fiscal year for which a grant is made. The average daily attendance to be used shall be the district's best three months average daily attendance.
- c) An approved application from the first round that is not funded because of an insufficient appropriation shall be placed ahead of new applications filed in a subsequent year, provided the applicant submits an updated application.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 151.135 Award of School Maintenance Project Grants - School Districts With a Population Exceeding 500,000

A school district with a population exceeding 500,000 that submits timely, complete and accurate applications in compliance with the School Construction Law and this Subpart shall be awarded grants in the amount provided by Section 5-100(c) of the School Construction Law.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 151.140 Terms of the Grant

- a) Grants shall be subject to the Illinois Grant Funds Recovery Act [30 ILCS 705]. Any grant funds not expended or legally obligated within

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- two years after disbursement by the State shall be returned to the State Board of Education within 45 days.
- b) Grant funds may only be used for the project described in the approved application and shall be accounted for in compliance with applicable accounting rules. The applicant must provide local matching funds in an amount equal to the grant. If actual project expenditures are less than expected so that the amount of the grant is greater than 50 percent of the total project expenditures, the applicant shall refund the amount of the grant that is in excess of 50 percent of actual project expenditures. The applicant shall file a final expenditure report with the State Board of Education that describes the use of the grant funds.
- c) The applicant shall comply with the School Construction Law, this Subpart and all other applicable laws and regulations in completing a project.

(Source: Added at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Aid to the Aged, Blind or Disabled

2) Code Citation: 89 Ill. Adm. Code 113

3) Section Numbers:
113.141 Proposed Action:
Amendment

4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

5) A Complete Description of the Subjects and Issues involved: These proposed amendments increase the prepaid burial exemption on an irrevocable funeral and burial fund from \$4,000 to \$4,120. The 3% increase is mandated by the current rule as an annual increase.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
113.113	Amendment	23 Ill. Reg. 12019
113.157	Amendment	23 Ill. Reg. 8575
113.260	Amendment	23 Ill. Reg. 8575

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF HUMAN SERVICES

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A) Types of small businesses, small municipalities and not for profit corporations affected: Funeral homes and cemetery establishments.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because: it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of Proposed Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113

AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section
113.1 Description of the Assistance Program
113.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
113.9 Client Cooperation
113.10 Citizenship
113.20 Residence
113.30 Age
113.40 Blind
113.50 Disabled
113.60 Living Arrangement
113.70 Institutional Status
113.80 Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section
113.100 Unearned Income
113.101 Budgeting Unearned Income
113.102 Application And/Or Date of Decision
113.103 Initial Receipt of Unearned Income
113.104 Termination of Unearned Income
113.105 Unearned Income In-Kind
113.106 Earmarked Income
113.107 Lump - Sum Payments and Income Tax Refunds
113.108 Protected Income (Repealed)
113.109 Earned Income (Repealed)
113.110 Budgeting Earned Income (Repealed)
113.111 Protected Income
113.112 Earned Income
113.113 Exempt Unearned Income
113.114 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
113.115 Initial Employment

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Budgeting Earned Income For Contractual Employees

113.116
113.117 Budgeting Earned Income For Non-contractual School Employees
113.118 Termination of Employment

113.120 Exempt Earned Income

113.125 Recognized Employment Expenses

113.130 Income From Work/Study/Training Programs

113.131 Earned Income From Self-Employment

113.132 Earned Income From Roomer and Boarder

113.133 Earned Income From Rental Property

113.134 Earned Income In-Kind

113.139 Payments from the Illinois Department of Children and Family Services
113.140 Assets

113.141 Exempt Assets

113.142 Asset Disregard

113.143 Deferral of Consideration of Assets

113.154 Property Transfers For Applications Filed Prior To October 1, 1989
(Repealed)

113.155 Property Transfers For Applications Filed On Or After October 1, 1989
(Repealed)

113.156 Court Ordered Child Support Payments of Parent/Step-Parent

113.157 Sponsors of Aliens

113.160 Assignment of Medical Support Rights

SUBPART D: PAYMENT AMOUNTS

Section
113.245
113.246
113.247
113.248
113.249
113.250
113.251
113.252
113.253
113.254
113.255
113.256
113.257
113.258
113.259
113.260
113.261

113.262

Payment Levels for AABD

Personal Allowance

Personal Allowance Amounts

Shelter

Utilities and Heating Fuel

Laundry

Telephone

Transportation, Lunches, Special Fees

Allowances for Increase in SSI Benefits

Nursing Care or Personal Care in Home Not Subject to Licensing

Sheltered Care in a Licensed Group Care Facility

Shopping Allowance

Special Allowances for Blind and Partially Sighted (Blind Only)

Home Delivered Meals

AABD Fuel and Utility Allowances By Area

Sheltered Care Rates

113.261 Cases in Licensed Intermediate Care Facilities, Licensed Skilled
Nursing Facilities, DMHDD Facilities and All Other Licensed Medical
Facilities

Meeting the Needs of an Ineligible Dependent with Client's Income

SUBPART E: OTHER PROVISIONS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section
113.300 Persons Who May Be Included In the Assistance Unit
113.301 Grandfathered Cases
113.302 Interim Assistance (Repealed)
113.303 Special Needs Authorizations
113.304 Retrospective Budgeting
113.305 Budgeting Schedule
113.306 Purchase and Repair of Household Furniture (Repealed)
113.307 Property Repairs and Maintenance
113.308 Excess Shelter Allowance
113.309 Limitation on Amount of AABD Assistance to Recipients from Other States (Repealed)
113.320 Redetermination of Eligibility
113.330 Attorney's Fees for VA Appellants (Repealed)

SUBPART F: INTERIM ASSISTANCE

Section
113.400 Description of the Interim Assistance Program
113.405 Pending SSI Application (Repealed)
113.410 More Likely Than Not Eligible for SSI (Repealed)
113.415 Non-Financial Factors of Eligibility (Repealed)
113.420 Financial Factors of Eligibility (Repealed)
113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)

113.435 Medical Eligibility (Repealed)
113.440 Attorney's Fees for SSI Applicants (Repealed)
113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6,

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1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985;

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amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15996, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15,

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1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995; emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 579, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1607, effective January 20, 1999; amended at 23 Ill. Reg. 5548, effective April 23, 1999; amended at 23 Ill. Reg. 6052, effective May 4, 1999; amended at 23 Ill. Reg. 6425, effective May 15, 1999; amended at 23 Ill. Reg. 6935, effective May 30, 1999; amended at 23 Ill. Reg. 7887, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8650, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10161, effective August 3, 1999; amended at 24 Ill. Reg. _____, effective _____.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 113.141 Exempt Assets

- a) The following assets are exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:
- 1) Homestead property.
 - 2) Personal Property
 - A) Personal effects extraordinarily and household goods of reasonable value (reasonable value means the client's equity value in such property does not exceed \$2,000). Wedding and engagement rings and items required due to medical or physical condition.
 - B) Regardless of the value, personal effects and household goods are exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described at 89 Ill. Adm. Code 120.386).

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3) Resources (for example, land, buildings, equipment and supplies or tools) necessary for self-support up to \$6,000 of the individual's equity in the income producing property, provided the property produces a net annual income of at least 6% of the excluded equity value of the property. The equity value in excess of \$6,000 is applied toward the asset disregard. If the activity produces income less than 6% of the exempt equity due to reasons beyond the individual's control (for example, the individual's illness or crop failure) and there is a reasonable expectation that the individual's activity will increase to produce income equal to 6% of the equity value (for example, the medical prognosis is that the individual is expected to respond to treatment or drought resistance corn will be planted), the property is exempt. If the individual owns more than one piece of property and each produces income, each is looked at to see if the 6% rule is met and then the amount of the individual's equity in all of those properties are totalled to see if the total equity is \$6,000 or less.

4) Automobile

A) exclude one automobile, regardless of value, used by the client, spouse, or other dependent if:

- i) it is necessary for employment;
- ii) it is necessary for the medical treatment of a specific or regular medical problem;
- iii) it is modified for operation by or transportation of a handicapped person;
- iv) it is necessary because of factors such as climate, terrain or distance to provide necessary transportation to perform essential daily activities; or

v) one vehicle for each spouse is exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described at 89 Ill. Adm. Code 120.386).

B) if not excluded in subsection (a)(4)(A) above exclude one automobile to the extent the fair market value does not exceed \$4500. Apply the excess fair market value toward the asset disregard (see Section 113.142). The Department will determine fair market value in accordance with 89 Ill. Adm. Code 121.57(b)(2)(D)(iv).

C) for all other automobiles, apply the equity value (fair market value minus any encumbrance) toward the asset disregard (see Section 113.142).

5) Life insurance policies with a total face value of \$1,500 or less and all term life insurance policies. If total face value exceeds \$1,500, the cash surrender value must be counted as a resource.

b) Burial spaces and funds are exempt as follows:

- 1) Burial spaces which are intended for the use of the individual,

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his or her spouse, or any other member of his or her immediate family. Immediate family is defined as an individual's minor and adult children, including adopted children and step-children, an individual's brothers, sisters, parents, adoptive parents, and the spouses of these individuals.

- 2) Funds set aside for the burial expenses of the individual and his or her spouse, subject to a limit of \$1,500 each. This limit will be reduced by the face value of any excluded life insurance policy and the amount of any funds held in an irrevocable trust or other irrevocable arrangement which are available for burial expenses.
- 3) Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements which occurred the earlier of the date of first SSI eligibility or the date of AABD eligibility, but no earlier than November 1, 1982 (see 20 CFR 416.1231(b)(5)(1989)).
- 4) Funds specifically and irrevocably set aside for the professional funeral services and burial expenses of the individual and his or her spouse, subject to a limit of \$4,120 \$47,989 each, including prepaid funeral and burial plans. This limit will be increased annually by 3%.

c) Assets necessary for fulfillment of an approved plan for achieving self support.

d) Trust funds are exempt as follows:

- 1) The principal of a trust fund only when the instrument establishing the trust specifically states the principal cannot be impaired.
- 2) The principal of a trust fund established under the Self Sufficiency Trust Fund Program [20 ILCS 1705/21.1].
- e) Assets excluded by express provision of 20 CFR 416.1236 (1989).
- f) Donations or benefits from fund raisers held for a seriously ill client provided the client or a responsible relative of the client does not have control (for example, not available to the client or the responsible relative) over the donations or benefits or the disbursement of donations or benefits.
- g) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201.
- h) Money received from the Social Security Administration under a Plan to Achieve Self-Support (PASS) and held in a separate account.
- i) Disaster relief payments provided by federal, state or local government or a disaster assistance organization.
- j) The amount of earned income tax credit which the client receives as advance payment or as a refund of federal income tax.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Determination of Need (DON) and Resulting Service Cost Maximums (SCM)

2) Code Citation: 89 Ill. Adm. Code 679

3) Section Numbers: 679.20
Proposed Action:
Amendment

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) A Complete Description of the Subjects and Issues involved: This rulemaking changes the times when the Mini-Mental Status Examination is administered. This amendment clarifies which customers will and will not be subject to the examination.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

Section Numbers Proposed Action Illinois Register Citation
679.50 Amendment 23 Ill. Reg. 10526-8/27/99

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield IL 62762
Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

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A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated at the time the July 1999 Regulatory Agenda was being developed.

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
 SUBCHAPTER d: HOME SERVICES PROGRAM

PART 679

DETERMINATION OF NEED (DON) AND RESULTING SERVICE COST MAXIMUMS (SCMs)

Section	
679.10	General Provisions
679.20	Composition of the DON
679.30	Scoring of the DON Except for Respite Cases
679.40	Scoring the DON for Respite Cases
679.50	Service Cost Maximums (SCMs)

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5062, effective March 21, 1995; amended at 20 Ill. Reg. 6303, effective April 18, 1996; amended at 21 Ill. Reg. 2674, effective February 7, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; emergency amendment at 22 Ill. Reg. 2328, effective January 12, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 10445, effective May 29, 1998; emergency amendment at 22 Ill. Reg. 16031, effective August 14, 1998, for a maximum of 150 days; emergency expired on January 11, 1999; amended at 23 Ill. Reg. 1615, effective January 20, 1999; amended at 23 Ill. Reg. 7492, effective June 17, 1999; emergency amendment at 23 Ill. Reg. 10526, effective August 10, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. _____, effective _____.

Section 679.20 Composition of the DON

The DON is comprised of three sections which are:

- a) the Mini-Mental Status Examination section, as developed by the University of Illinois - Chicago, School of Public Health, which is used to determine the individual's cognitive functioning, and therefore the ability of the individual to adequately respond to the DON questions about his or her functioning capacity in the completion of the DON. Home Service Program staff may choose to not administer the MMSE if interaction with the customer, during the interview to gather demographic information, reveals no cognitive problems. The Mini-Mental Status Examination section this--section shall not be administered to individuals who:
 - 1) are under 12 years of age or younger; 7-or-who-have-a-diagnosis of-developmentally-disabled
 - 2) manifest, or have been diagnosed with, mental retardation or a related condition that results in impairment of a person's general intellectual functioning; or

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- 3) manifest adaptive behavior and require services similar to an individual with mental retardation.
- b) Part A which measures the individual's need for care in the completion of ADUs; and
- c) Part B which measures the individual's unmet need for care in the completion of ADUs.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Food Stamps

2) Code Citation: 89 Ill. Adm. Code 121

3) Section Numbers: 121.63
Proposed Action:
Amendment

4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

5) A Complete Description of the Subjects and Issues involved: This rulemaking will amend the Section on Deductions from Monthly Income. The federal Personal Responsibility and Work Opportunity Reconciliation Act, Section 809, made use of the Homeless Standard optional. With this rule change, if a homeless household anticipates shelter costs, the cost will be used when computing the household's food stamp benefits.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield IL 62762
Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit

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corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: This amendment was not anticipated at that time.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF HUMANS SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section	
121.1	Application for Assistance
121.2	Time Limitations on the Disposition of an Application
121.3	Approval of an Application and Initial Authorization of Assistance
121.4	Denial of an Application
121.5	Client Cooperation
121.6	Emergency Assistance
121.7	Expedited Services
121.10	Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.18	Work Requirement
121.19	Ending a Voluntary Quit Disqualification
121.20	Citizenship
121.21	Residence
121.22	Social Security Numbers
121.23	Work Registration/Participation Requirements
121.24	Individuals Exempt From Work Registration Requirements
121.25	Failure to Comply
121.26	Period of Sanction
121.27	Voluntary Job Quit
121.28	Good Cause for Voluntary Job Quit
121.29	Exemptions from Voluntary Quit Rule

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomer and Boarder

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121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions From Monthly Income
121.64	Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Households Receiving AFDC, SSI, Interim Assistance and/or GA - Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section	
121.80	Fraud Disqualification (Renumbered)
121.81	Initiation of Administrative Fraud Hearing (Repealed)
121.82	Definition of Fraud (Renumbered)
121.83	Notification To Applicant Households (Renumbered)
121.84	Disqualification Upon Finding of Fraud (Renumbered)
121.85	Court Imposed Disqualification (Renumbered)
121.90	Monthly Reporting and Retrospective Budgeting
121.91	Monthly Reporting
121.92	Retrospective Budgeting
121.93	Issuance of Food Stamp Benefits
121.94	Replacement of the EBT Card or Food Stamp Benefits
121.95	Restoration of Lost Benefits
121.96	Uses For Food Coupons
121.97	Supplemental Payments
121.98	Client Training for the Electronic Benefits Transfer (EBT) System
121.105	State Food Program (Repealed)
121.107	New State Food Program

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121.120 Recertification of Eligibility
 121.130 Residents of Shelters for Battered Women and their Children
 121.131 Fleeing Felons and Probation/Parole Violators
 121.135 Incorporation By Reference
 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
 121.145 Quarterly Reporting

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section
 121.150 Definition of Intentional Violations of the Program
 121.151 Penalties for Intentional Violations of the Program
 121.152 Notification To Applicant Households
 121.153 Disqualification Upon Finding of Intentional Violation of the Program
 121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section
 121.160 Persons Required to Participate
 121.162 Participation and Cooperation Requirements
 121.164 Orientation
 121.166 Assessment and Employability Plan
 121.170 Job Search Component
 121.172 Basic Education Component
 121.174 Job Readiness Component
 121.176 Work Experience Component
 121.177 Illinois Works Component
 121.178 Job Training Component
 121.179 JTPA Employability Services Component
 121.180 Grant Diversion Component (Repealed)
 121.182 Earnfare Component
 121.184 Sanctions
 121.186 Good Cause for Failure to Cooperate
 121.188 Supportive Services
 121.190 Conciliation and Fair Hearings
 121.200 Types of Claims (Recodified)
 121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
 121.203 Collecting Claim Against Households (Recodified)
 121.204 Failure to Respond to Initial Demand Letter (Recodified)
 121.205 Methods of Repayment of Food Stamp Claims (Recodified)
 121.206 Determination of Monthly Allotment Reductions (Recodified)
 121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)

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121.208 Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section
 121.220 Work Requirement Components
 121.221 Meeting the Work Requirement with the Earnfare Component
 121.222 Volunteer Community Work Component
 121.223 Work Experience Component
 121.224 Supportive Service Payments to Meet the Work Requirement
 121.225 Meeting the Work Requirement with the Illinois Works Component
 121.226 Meeting the Work Requirement with the JTPA Employability Services Component

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November

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18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15382, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg.

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15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; amended at 24 Ill. Reg. _____, effective _____.

SUBPART D: ELIGIBILITY STANDARDS

Section 121.63 Deductions From Monthly Income

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- a) The deductions described in this Section shall be allowed in the determination of the adjusted net monthly food stamp income.
- b) Earned Income Deduction. Eighty percent of total gross earned income is considered. See Sections 121.40 through 121.54 for a description of earned income.
- c) Standard Deduction. The standard deduction is \$134 per household per month except for cases in which the person receiving the food stamp benefits also receives TANF cash assistance. Those households receive a reduced amount of the standard deduction as negotiated between the Food and Nutrition Service and the Department.
- d) Dependent Care Deduction

1) The dependent care deduction consists of payments for the care of a child or other dependent when necessary for a household member to accept or continue employment or to seek employment in compliance with the job search criteria (contained in 89 Ill. Adm. Code 112.70 through 112.73) or to attend training or pursue education which is preparatory for employment.

2) The amount of the deduction is to be determined by the actual costs for care and is not to exceed \$200 per month for each child under age 2 and \$175 per month for each other dependent household member.

e) Child Support Deduction. The child support deduction is the amount of legally obligated child support paid by a household member to or for a nonhousehold member.

f) Shelter Costs Deduction

1) The shelter deduction is the amount of shelter costs that exceed 50% of the household's total income after the allowable deductions in subsections (b), (c), (d), and (e) of this Section have been made. The shelter deduction shall not exceed \$250.

2) If the household contains a member who is elderly or disabled, as defined at 7 CFR 271.2 (1990) and Section 121.61, there is no limit on the amount of the excess shelter deduction.

3) Households in which all members are homeless, but are not receiving free shelter throughout the month, are entitled to a \$143-per-month homeless shelter costs deduction. Homeless households with shelter costs which exceed the homeless shelter costs deduction are allowed to claim the higher shelter costs, if these costs are verified. Homeless households which receive free housing and utilities throughout the month are not entitled to the homeless shelter costs deduction.

34) Shelter costs include only the following:

- A) continuing charges for the shelter occupied by the household (rent, mortgage and other charges leading to the ownership of the shelter, including interest on such charges);
- B) property taxes, State and local assessments and insurance on the structure itself; and
- C) utility costs, as described in subsection (g) of this Section.

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45) Shelter costs for a home temporarily unoccupied by the household because of employment or training away from home, illness or abandonment caused by a natural disaster or casualty loss, if:

A) the household intends to return to the home;

B) the current occupants of the home, if any, are not claiming the shelter costs for food stamp purposes; and

C) the home is not leased or rented during the absence of the household.

56) Charges for repair of a home which was damaged or destroyed due to a natural disaster. Shelter costs shall not include repair charges which have been or will be reimbursed by private or public relief agencies, insurance companies or any other source.

g) Utility Costs

1) Utility costs include:

A) the cost of heating and cooking fuel, air conditioning, electricity, water, sewerage, garbage and trash collection fees;

B) basic service fee for one telephone (including tax on the basic fee) of \$27; and

C) fees charged by the utility provider for initial installation.

2) Utility deposits are not considered to be utility costs.

3) Those households which are billed for heating or air conditioning, or both, separately from their rent or mortgage may claim the standard utility allowance of \$209. Households living in rental housing who are billed on a regular basis by a landlord for costs for heating or air conditioning, or both, may use the standard utility allowance if utility usage is determined through a meter or otherwise is verifiable or if the charge for heating or air conditioning, or both, is separate and identifiable. If the standard utility allowance is used, then no other utility costs may be claimed. If actual utility costs exceed the standard utility allowance, then actual, verified costs may be claimed, except that if a separately-billed phone expense is claimed only the basic telephone allowance of \$27 per month is allowed. The client may switch between the standard utility allowance and actual utility costs only at recertification.

4) However, during the heating or cooling season, a household that is billed less often than monthly for its costs for heating or air conditioning, or both, but is otherwise eligible to use the standard utility allowance, may continue to use the standard utility allowance between billing months.

5) Households in public housing or privately owned rental units which receive a bill for over-usage are not entitled to use the standard utility allowance. When households (as defined at 7 CFR 273.1(a) (1990)) live together, the standard utility allowance shall be divided equally among the households that contribute toward the utility costs whether or not each household

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- participates in the program.
- 6) Households whose expense for heat or air conditioning, or both, is covered by indirect energy assistance payments under the Illinois Home Energy Assistance Program (47 Ill. Adm. Code 100) shall be entitled to the standard utility allowance (7 CFR 273.9 and 273.10(d)(6) (1990)). The provisions of subsection (f)(3) of this Section are applicable to households whose expenses for heating or air conditioning, or both, are covered by indirect energy assistance payments.
- 7) Those households which are not billed separately for either heat or air conditioning are not entitled to claim the standard utility allowance but may claim the actual utility amounts for which they are billed separately, subject to the \$27 per month limitation for telephone expense.
- h) Excess Medical Deduction. A deduction for excess medical expenses shall be allowed for households which contain an elderly or disabled member as defined at 7 CFR 271.2 (1990) and Section 121.61. The medical expenses incurred by the qualifying household member which are over \$35 will be deducted, if the expenses will not be reimbursed by insurance or a third party.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment

- 2) Code Citation: 89 Ill. Adm. Code 686

- 3) Section Numbers:
686.350
686.620
- Proposed Action:
Amended
Amended

- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

- 5) A Complete Description of the Subjects and Issues involved: This rulemaking amends two Sections. The first amendment removes the specific rates for Electronic Home Response Systems service and hook ups. These rates are no longer valid and have restricted the use of this service. The amendment allows HSP to negotiate rates as needed. The second change clarifies the landlords need to know that any environmental remodeling to the building will not be removed, at HSP expense, if the customer no longer needs it or has left that residence.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

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12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Providers of Electronic Home Response
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary form compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated when the 1999 regulatory agendas were developed.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 686

PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section
686.10
686.20
686.25
686.30
686.40

Personal Assistant (PA) Requirements
Services Which May Be Provided by a PA
Criminal Background Check
Annual Review of PA Performance
Payment for PA Services

SUBPART B: ADULT DAY CARE PROVIDERS

Section
686.100
686.110
686.120
686.130
686.140

Adult Day Care (ADC) Provider Requirements
Services Which Must Be Provided by ADC Providers
Annual Compliance Review of ADC Providers
Appeal of Compliance Review for ADC Providers
Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section
686.200
686.210
686.220
686.230
686.240
686.250
686.260
686.270
686.280

Homemaker Service Provider Requirements
Services Which Must Be Provided by Homemaker Agencies
Annual Compliance Review of Homemaker Agencies
Appeal of Compliance Review for Homemaker Agencies
Payment for Homemaker Services
Financial Reporting of Homemaker Services
Unallowable Costs for Homemaker Service
Minimum Direct Service Worker Costs for Homemaker Services
Cost Categories for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

Section
686.300
686.310
686.320
686.330
686.340

Electronic Home Response Services (EHRs) Provider Requirements
Services Which Must Be Provided by EHRs Providers
Minimum Specifications for EHRs Equipment
Annual Compliance Review of EHRs Providers
Appeal of Compliance Review for EHRs Providers

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686.350 Rate of Payment for EHRS Services

SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section
686.400 Maintenance Home Health Provider Requirements
686.410 Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section
686.500 Home Delivered Meals Provider Requirements
686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

686.600 Environmental Modification Provider Requirements
686.610 Cost of Environmental Modification
686.620 Permanency of Environmental Modification
686.630 Reason for Denial of Environmental Modification
686.640 Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section
686.700 Assistive Equipment Provider Requirements
686.710 Provision of Assistive Equipment
686.720 Verification of Receipt of Assistive Equipment

SUBPART I: RESPITE CARE

Section
686.800 Respite Care Provider Requirements

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section
686.900 Program Overview
686.910 Case Management Provider Responsibilities
686.920 Provider Staffing Requirements, Qualifications, and Training
686.930 Monitoring and Liability of Provider
686.940 Provider Compliance Requirements

SUBPART K: CASE MANAGEMENT SERVICES TO PERSONS WITH BRAIN INJURIES

Section
686.1000 Program Overview
686.1010 Case Management Provider Responsibilities

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686.1020 Case Manager Staffing Requirements, Qualifications and Training
686.1025 Provisional Case Manager
686.1030 Monitoring and Liability
686.1040 Provider Compliance Requirements

SUBPART L: BEHAVIORAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1100 Behavioral Services Provider Requirements
686.1110 Rate of Payment for Behavioral Services

SUBPART M: DAY HABILITATION SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1200 Day Habilitation Services Provider Requirements
686.1210 Rate of Payment for Day Habilitation Services

SUBPART N: PREVOCATIONAL SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1300 Prevocational Services Provider Requirements
686.1310 Rate of Payment for Prevocational Services

SUBPART O: SUPPORTED EMPLOYMENT SERVICES FOR PERSONS WITH BRAIN INJURIES

Section
686.1400 Supported Employment Service Provider Requirements
686.1410 Rate of Pay for Supported Employment Services

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18945, effective October 1, 1998; amended at 22 Ill. Reg. 19262, effective October 1, 1998; amended at 23 Ill. Reg. 499, effective December 22, 1998; amended at 23 Ill. Reg. 6457, effective May 17, 1999; amended at 24 Ill. Reg. _____, effective _____.

Section 686.350 Rate of Payment for EHRS Services

a) Installation

DHS-ORS shall pay up to the rate negotiated \$75 as a one time installation fee for the installation of the EHRS unit, plus the charge of the local telephone company for telephone service hook up for those customers who do not have local telephone service at the time EHRS services are initiated.

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b) Monthly Service Fees

DHS-ORS shall pay no more than the rate negotiated \$70-per-month--for EHRS services, including all fees and charges. DHS-ORS will not pay the cost of the monthly local telephone services required to have EHRS.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART G: ENVIRONMENTAL MODIFICATION

Section 686.620 Permanency of Environmental Modification

For environmental modifications which cannot be detached from the dwelling, the home must be owned by the customer or other family member living in the home, or the customer, with the assistance of the counselor, must obtain written permission of the landlord to make the modifications and to ensure that the landlord understands the permanency of the modification and DHS-ORS inability to return the building to its previous condition.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Administrative and Judicial Review2) Code Citation: 62 Ill. Adm. Code 18473) Section Number: Proposed Action:
1847.3 Amendment4) Statutory Authority: Implemented and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) A complete description of the subjects and issues involved: The proposed amendments set forth hearing procedures for situations where the Illinois Department of Natural Resources seeks to adjust a performance bond under the Surface Coal Mining Land Conservation and Reclamation Act.

6) Will this proposed rule replace an emergency rule currently in effect? Yes

Section Numbers Emergency Action Illinois Register Citation
1847.3 Amendments 23 Ill. Reg. 12484, October 8, 1999

7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporations by reference? No9) Are there any other amendments pending on this Part? No10) Statement of Statewide Policy Objectives: The proposed amendments will have no impact upon local units of government11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of the notice to:

Karen Jacobs, Legal Counsel
Illinois Department of Natural Resources
524 South Second Street
Springfield IL 62701
(217)782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendments will have no impact on small municipalities or not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance:
None

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NOTICE OF PROPOSED AMENDMENTS

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1847

ADMINISTRATIVE AND JUDICIAL REVIEW

Section

1847.1 Scope

1847.2 Construction

1847.3 Hearings

1847.4 Citation Hearings

1847.5 Civil Penalty Assessment Hearings

1847.6 Show Cause Hearings

1847.7 Bond Forfeiture Hearings

1847.8 Individual Civil Penalty Hearings

1847.9 Bond Release Hearings

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 17 Ill. Reg. 10887, effective July 1, 1993; amended at 20 Ill. Reg. 1919, effective January 19, 1996; amended at 22 Ill. Reg. 20144, effective November 5, 1998; emergency amendment at 23 Ill. Reg. 12484, effective September 23, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. _____, effective _____.

Section 1847.3 Hearings

- a) Within 30 days after an applicant is mailed written notice of the Department's final decision concerning an application for approval of exploration required under 62 Ill. Adm. Code 1772, a permit for surface coal mining and reclamation operations, a permit revision, a permit renewal, a permit rescission or a transfer, assignment, or sale of permit rights, the applicant, or any person with an interest which is or may be adversely affected, may file a written request for a hearing to contest the decision. The procedures outlined in this Section apply to conflict of interest hearings requested under 62 Ill. Adm. Code 1705.21, review of valid existing right determinations under 62 Ill. Adm. Code 1761.12(g), review of exemption determinations under 62 Ill. Adm. Code 1702.11(f) and 1702.17(c)(2), formal review of decisions not to inspect or enforce under 62 Ill. Adm. Code 1840.17, review of a permit issued pursuant to 62 Ill. Adm. Code 1785.23 and review of bond adjustment determinations under 62 Ill. Adm. Code 1800.15. ~~Hearings-request-under-62-ill-Adm-Code-1773-24.~~ Failure to file a request for hearing within this 30 day time period shall result in a waiver of the right to such hearing; requests for hearing filed after the expiration of the 30 day time period shall be dismissed on motion of the Department in accordance with 62 Ill. Adm. Code 1848.12.

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b) The hearing request shall state:

- 1) The petitioner's name and address;
 - 2) A clear statement of the facts entitling the petitioner to relief, including the petitioner's interest(s) which is or may be adversely affected by the Department's final decision;
 - 3) How the Department's final decision may or will adversely affect the interest(s) specified;
 - 4) An explanation of each specific alleged error in the Department's final decision, including reference to the statutory and/or regulatory provisions allegedly violated;
 - 5) The specific relief sought from the Department; and
 - 6) Any other relevant information.
- c) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.
- d) Unless a pre-hearing conference has been scheduled or unless the person requesting the hearing waives the 30 day time limit, the Department shall start the hearing within 30 days after the hearing request. The hearing shall be on the record and adjudicatory in nature. No person who presided at an informal conference under 62 Ill. Adm. Code 1773.13(c) or a public hearing under 62 Ill. Adm. Code 1773.14 shall either preside at the hearing or participate in the decision following the hearing.
- e) Notice of hearing. The petitioner and other interested persons shall be given written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 at least five working days prior thereto. Notice of the hearing shall also be posted at the appropriate district or field office.
- f) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least 60 days after the final decision referred to in subsection (j) below is issued.
- g) Burden of proof.
- 1) In a proceeding to review a decision on an application for a new permit:
 - A) If the permit applicant is seeking review, the Department shall have the burden of going forward to establish a prima facie case as to the failure to comply with the applicable requirements of the State Act or regulations or as to the appropriateness of the permit terms and conditions, and the permit applicant shall have the ultimate burden of persuasion as to entitlement to the permit or as to the inappropriateness of the permit terms and conditions.
 - B) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion by a preponderance of the evidence that the permit application fails in some manner to comply with the applicable

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requirements of the State Act or regulations.

- 2) In all other proceedings held under this Section, the party seeking to reverse the Department's decision shall have the burden of proving by a preponderance of evidence that the Department's decision is in error.
- h) Within 30 days after the close of the record, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request.
- i) Within ten days after service of the hearing officer's proposed decision, each party to the hearing may file with the hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have ten days after service of written exceptions to file a response thereto with the hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.
- j) If no written exceptions are filed, the hearing officer's proposed decision shall become final ten days after service of such decision. If written exceptions are filed, the hearing officer shall within 15 days following the time for filing a response thereto either issue his final administrative decision affirming or modifying his proposed decision, or shall vacate the decision and remand the proceeding for rehearing.
- k) Request for temporary relief.
 - 1) Any party may file a request for temporary relief at any time prior to a decision by the hearing officer, so long as the relief sought is not the issuance of a permit where a permit application has been disapproved in whole or in part. The request for temporary relief shall include:
 - A) A detailed written statement setting forth the reasons why relief should be granted;
 - B) A statement of the specific relief requested;
 - C) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceeding; and
 - D) A showing that the relief sought will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air or water resources.
 - 2) The hearing officer may hold a hearing on any issue raised by the request for temporary relief.
 - 3) Within 15 days after the close of the record on the request for temporary relief, the hearing officer shall issue an order or decision granting or denying such temporary relief. Temporary relief may be granted only if:
 - A) All parties to the proceeding have been notified and given

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an opportunity to be heard on the request for temporary relief;

- B) The person requesting such relief shows a substantial likelihood of prevailing on the merits of the final determination of the proceeding;
- C) Such relief will not adversely affect the public health or safety, or cause significant, imminent environmental harm to land, air or water resources; and
- D) The relief sought is not the issuance of a permit where a permit has been denied by the Department, in whole or in part, except that continuation under an existing permit shall be allowed where the applicant has a valid permit issued pursuant to 62 Ill. Adm. Code 300.

- 1) Judicial review. Following service of the Department's final administrative decision, any person with an interest which is or may be adversely affected and who has participated in the administrative hearing under this Section may request judicial review of that decision in accordance with the Administrative Review Law [735 ILCS 5/Art. III], if:

- 1) The person is aggrieved by the Department's final administrative decision; or
- 2) The hearing officer or Department failed to act within the time limits specified in the Surface Mining Control And Reclamation Act of 1977 (30 USC 1201 et seq.), the Surface Coal Mining Land Conservation and Reclamation Act (State Act) [225 ILCS 720] or this Section.
- 3) Review under this subsection (1) shall not be construed to limit rights established in Section 8.05 of the State Act [225 ILCS 720/8.05].

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Bonding and Insurance Requirements For Surface Coal Mining and Reclamation Operations

- 2) Code Citation: 62 Ill. Adm. Code 1800

- 3) Section Numbers:
1800.13 Amendments
1800.15 Amendments
1800.40 Amendments

- 4) Statutory Authority: Implemented and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

- 5) A complete description of the subjects and issues involved: The proposed changes provide an opportunity for administrative review when the Department seeks to adjust a permittee's performance bond. The proposal also allows the Department to initiate an application for bond release, corrects clerical errors and provides for notice to municipalities by certified mail when a bond release application is filed.

- 6) Will this proposed rule replace an emergency rule currently in effect?
Yes

<u>Section Numbers</u>	<u>Emergency Action</u>	<u>Illinois Register Citation</u>
1800.15	Amendment	23 Ill. Reg. 12490, October 8, 1999

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impact upon local units of government.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Karen Jacobs, Legal Counsel
Illinois Department of Natural Resources
524 South Second Street
Springfield IL 62701
(217)782-1809

- 12) Initial Regulatory Flexibility Analysis:

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A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendments will have no impact on small municipalities or not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1800

BONDING AND INSURANCE REQUIREMENTS FOR
SURFACE COAL MINING AND RECLAMATION OPERATIONS

Section	Scope and Purpose
1800.1	Objective (Repealed)
1800.2	Department Responsibilities
1800.4	Definitions
1800.5	Requirement to File a Bond
1800.11	Form of the Performance Bond
1800.12	Period of Liability
1800.13	Determination of Bond Amount
1800.14	Adjustment of Amount
1800.15	General Terms and Conditions of Bond
1800.16	Bonding Requirements for Underground Coal Mines and Long-Term
1800.17	Coal-Related Surface Facilities and Structures
1800.20	Surety Bonds
1800.21	Collateral Bonds
1800.23	Self-Bonding
1800.30	Replacement of Bonds
1800.40	Requirement to Release Performance Bonds
1800.50	Forfeiture of Bonds
1800.60	Terms and Conditions for Liability Insurance

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9354; amended at 11 Ill. Reg. 7985, effective July 1, 1987; amended at 14 Ill. Reg. 11785, effective January 1, 1991; amended at 17 Ill. Reg. 10916, effective July 1, 1993; amended at 20 Ill. Reg. 1939, effective January 19, 1996; amended at 20 Ill. Reg. 15683, effective December 2, 1996; amended at 22 Ill. Reg. 20157, effective November 5, 1998; emergency amendment at 23 Ill. Reg. 12490, effective September 23, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. _____, effective _____.

Section 1800.13 Period of Liability

- a) Performance bond liability shall be for the duration of the surface coal mining and reclamation operation and for a period which is coincident with the operator's period of extended responsibility for successful revegetation provided in 62 Ill. Adm. Code 1816.116 or 1817.116 or until achievement of the reclamation requirements of the

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- State Act, regulatory programs, and permit, whichever is later.
- b) Isolated and clearly defined portions of the permit area requiring extended liability may be separated from the original area and bonded separately with the approval of the Department. Such areas shall be limited in extent and not constitute a scattered, intermittent, or checkerboard pattern of failure. Access to the separated areas for remedial work may be included in the area under extended liability if deemed necessary by the Department.
- c) If the Department approves a long-term, intensive agricultural post-mining land use, in accordance with 62 Ill. Adm. Code 1816.133 or 1817.133, the five (5) year period of liability shall commence at the date of initial planting for such long-term agricultural use.
- d)

- 1) The bond liability of the permittee shall include only those actions which he or she is obligated to take under the permit, including completion of the reclamation plan, so that the land will be capable of supporting the post-mining land use approved under 62 Ill. Adm. Code 1816.133 or 1817.133.
- 2) Implementation of an alternative post-mining land use approved under 62 Ill. Adm. Code 1816.133~~(e)~~ and 1817.133~~(e)~~ which is beyond the control of the permittee, need not be covered by the bond. Bond liability for prime farmland shall be as specified in Section 1800.40(c)(2).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1800.15 Adjustment of Amount

- a) The amount of the bond or deposit required and the terms of the acceptance of the applicant's bond shall be adjusted by the Department from time to time as the area requiring bond coverage is increased or decreased or where the cost of future reclamation changes. The Department may specify periodic times or set a schedule for reevaluating and adjusting the bond amount to fulfill this requirement.

- b) The Department shall:

- 1) Notify the permittee, the surety, and any person with a property interest in collateral who has requested notification under Section 1800.21(e) of any proposed adjustment to the bond amount; and
- 2) Provide the permittee an opportunity for administrative review in accordance with 62 Ill. Adm. Code 1847.3 ~~an informal~~ **on-the-adjustment** conference.
- c) A permittee may request reduction of the amount of the performance bond upon submission of evidence to the Department proving that the permittee's method of operation or other circumstances reduces the estimated cost for the Department to reclaim the bonded area. Bond

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adjustments which involve undisturbed land or revision of the cost estimate of reclamation are not considered bond release subject to procedures of Section 1800.40.

- d) In the event that an approved permit is revised in accordance with 62 Ill. Adm. Code 1772 through 1785 the Department shall review the bond for adequacy and, if necessary, shall require adjustment of the bond to conform to the permit as revised.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1800.40 Requirement to Release Performance Bonds

- a) Bond release application.

1) The permittee may file an application with the Department for the release of all or part of a performance bond at any time. The permittee may authorize a person to act on their behalf. The Department may also initiate an application for bond release.

2) Within 30 days after an application for bond release has been filed with the Department, the applicant **operator** shall submit a copy of an advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. The advertisement shall be considered part of any bond release application and shall contain the permit number and approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, a description of the results achieved as they relate to the **operator's** applicant's approved reclamation plan, and the name and address of the Department to which written comments, objections, or requests for public hearings on the specific bond release may be submitted pursuant to subsection (e). In addition, as part of any bond release application, the applicant shall submit copies of letters which he or she has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. The applicant **operator** shall submit a certification of publication for such advertisement prior to the Department's final administrative decision releasing bond.

3) The applicant **permittee** shall include in the application for bond release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of the State Act, the regulatory program and the approved reclamation plan. Such certification shall be submitted

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for each application or phase of bond release.

b) Inspection by Department.

1) Upon filing of the bond release application, the Department shall, within 30 days, or as soon thereafter as weather conditions permit, conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other factors, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of future occurrence of such pollution, and the estimated cost of abating such pollution. The surface owner, agent, or lessee shall be given notice of such inspection and may participate with the Department in making the bond release inspection. The Department may arrange with the permittee to allow access to the permit area, upon request by any person with an interest in bond release, for the purpose of gathering information relevant to the proceeding.

2) Within 60 days from the filing of the bond release application, if no public hearing is held pursuant to subsection (e), or, within 30 days after a public hearing has been held pursuant to subsection (e), the Department shall notify, in writing, the permittee, the municipality and county in which the surface coal mining operation is located, the surety, or other persons with an interest in bond collateral who have requested notification under Section 1800.21(e), and the persons who either filed objections in writing or objectors who were a party to the hearing proceedings, if any, its final administrative decision to release or not to release all or part of the performance bond. The municipality shall be notified by certified mail.

c) The Department may release all or part of the bond for the entire permit area or incremental area if the Department is satisfied that all the reclamation or a phase of the reclamation covered by the bond or portion thereof has been accomplished in accordance with the following schedules for reclamation of Phases I, II, and III:

1) At the completion of Phase I, after the operator completes the backfilling, regrading (which includes the replacement of topsoil) and drainage control of a bonded area in accordance with the approved reclamation plan, 60% of the bond or collateral for the applicable area.

2) At the completion of Phase II, after revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, an additional amount of bond. When determining the amount of bond to be released after successful revegetation has been established, the Department shall retain that amount of bond for the revegetated area which would be sufficient to cover the cost of reestablishing revegetation if completed by a third party and for the period specified for operator responsibility in Section 6.08(d)(2) of the State Act for reestablishing revegetation. No part of the bond or deposit

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shall be released under subsection (c)(2) so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by Section 3.10 of the State Act and by 62 Ill. Adm. Code 1816 or 1817 or until soil productivity for prime farmland has returned to the equivalent levels of yield as nominated land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to Section 2.02(a) of the State Act and 62 Ill. Adm. Code 1823. Where a silt dam is to be retained as a permanent impoundment pursuant to 62 Ill. Adm. Code 1816 or 1817, the Phase II portion of the bond may be released under this subsection so long as provisions for sound future maintenance by the operator or the landowner have been made with the Department.

3) At the completion of Phase III, after the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified for operator responsibility in 62 Ill. Adm. Code 1816.116 of 1817.116. However, no bond shall be fully released under this subsection until the reclamation requirements of the State Act and the permit are fully met.

d) If the Department disapproves the application for release of the bond or portion thereof, the Department shall notify the permittee, the surety, and any person with an interest in collateral as provided for in Section 1800.21(e), in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release and allowing an opportunity for a public hearing, pursuant to subsection (e) below.

e) Any person with a valid legal interest which might be adversely affected by release of the bond, or the responsible officer or head of any Federal, State, or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or which is authorized to develop and enforce environmental standards with respect to such operations, shall have the right to file written objections to the proposed release from bond with the Department within 30 days after the last publication of the notice required by subsection (a)(2). If written objections are filed and a hearing is requested, the hearing shall be held in accordance with 62 Ill. Adm. Code 1847.9.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

OFFICE OF BANKS AND REAL ESTATE
NOTICE OF PROPOSED RULES

1) Heading of the Part: Auction License Act

2) Code Citation: 68 Ill. Adm. Code 1440

3) Section Numbers: Proposed Action:

1440.10	New Section
1440.100	New Section
1440.110	New Section
1440.120	New Section
1440.130	New Section
1440.140	New Section
1440.150	New Section
1440.160	New Section
1440.170	New Section
1440.180	New Section
1440.190	New Section
1440.200	New Section
1440.210	New Section
1440.220	New Section
1440.230	New Section
1440.240	New Section
1440.250	New Section
1440.260	New Section
1440.270	New Section
1440.280	New Section

4) Statutory Authority: Implementing and authorized by the Auction License Act [225 ILCS 407].

5) A Complete Description of the Subjects and Issues Involved: Effective January 1, 2000 the Office of Banks & Real Estate will begin licensing auctioneers for the first time, pursuant to the Auction License Act. The proposed rules set forth definitions, license requirements, and other administrative rules needed to implement the new program.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not affect local government.

11) Time, Place and Manner in which interested persons may comment on this

OFFICE OF BANKS AND REAL ESTATE
NOTICE OF PROPOSED RULES

Proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

Norm Willoughby
Office of Banks and Real Estate
500 East Monroe, Suite 200
Springfield, Illinois 62701
217/782-3000

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Licensees under the Auction License Act.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This was not on the included on either of the 2 most recent agendas because this Act was signed into law on August 16, 1999.

The full text of the Proposed Rules is identical to the text of the Emergency Rules appearing in this issue of the Illinois Register on page 13416 :

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Home Medical Equipment and Services Provider Act

2) Code Citation: 68 Ill. Adm. Code 1253

Section Numbers:	Proposed Action:
1253.10	New Section
1253.20	New Section
1253.30	New Section
1253.40	New Section
1253.50	New Section
1253.60	New Section
1253.70	New Section
1253.80	New Section
1253.90	New Section
1253.100	New Section

4) Statutory Authority: Home Medical Equipment and Services Provider Act [225 ILCS 51]

5) A Complete Description of the Subjects and Issues Involved: Public Act 90-532, effective January 31, 1997, provides for the licensure of home medical equipment and service providers by the Department of Professional Regulation. When adopted, these rules will allow the Department to begin accepting and processing licensure applications.

Section 1253.20 sets forth the requirements for applicants to obtain a license. The rules also set forth procedures to be followed when a change in ownership or operation takes place, for renewal of a license and under what circumstances the Director of the Department may grant variances to these rules. Acts constituting unethical, unauthorized, or unprofessional conduct have been set forth in Section 1253.90.

Fees for home medical equipment and services provider licensure, renewal and general processing fees are set forth in Section 1253.70.

6) Do these proposed Rules replace an emergency Rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed Rules contain incorporations by reference? Yes

9) Are there any other proposed Rules pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no effect on local governments.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

DEPARTMENT OF PROFESSIONAL REGULATION

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Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813 Fax # 217/782-7645

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing home medical equipment and services.

B) Reporting, bookkeeping or other procedures required for compliance: Every license issued under the Act shall expire on June 30 of odd numbered years. The first license renewal period will be June 30, 2001. Licensees are responsible for notifying the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to renew a license.

C) Types of professional skills necessary for compliance: No specific professional skills are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: January 1999

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1253

HOME MEDICAL EQUIPMENT AND SERVICES PROVIDER ACT

Section	
1253.10	Definitions
1253.20	Application for Licensure
1253.30	Personnel
1253.40	Laws Applicable to Home Medical Equipment and Service Providers
1253.50	Change of Ownership
1253.60	Change of Operations
1253.70	Fees
1253.80	Renewals
1253.90	Professional Conduct Standards
1253.100	Granting Variances

AUTHORITY: Implementing the Home Medical Equipment and Services Provider Act [225 ILCS 51] and authorized by Section 60(7) of The Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 24 Ill. Reg. _____, effective _____.

Section 1253.10 Definitions

"Act" means the Home Medical Equipment and Services Provider Act [225 ILCS 51].

"Board" means the Home Medical Equipment and Services Board.

"Department" means the Department of Professional Regulation.

"Director" means the Director of the Department of Professional Regulation.

"Provider" means a licensed home medical equipment and services provider as defined in Section 5 of the Act.

"Recognized accrediting body" as referenced in the Act and this Part shall mean Joint Commission on Accreditation of Health Care Organizations (JCAHO), Accreditation Commission for Home Care Inc. (ACHC) and any other organization recommended by the Board and approved by the Department.

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Section 1253.20 Application for Licensure

- a) Entities applying for licensure as a home medical equipment and services provider shall file an application with the Department, on forms provided by the Department. The application shall include the following:

- 1) The name, location (including street, city, state (no post office box)) and telephone number of the applicant;
- 2) Certification of insurance from the insurer showing \$1,000,000 of commercial general liability insurance, including but not limited to coverage for products liability and professional liability;
- 3) All trade or business names used by the applicant;
- 4) A list of categories of services provided;
- 5) Medicare Identification Number (if applicable);
- 6) Name of the person in charge of the day to day operation of the business;
- 7) The type of ownership or operation (i.e., partnership, limited liability company, corporation or sole proprietorship). If a corporation, a copy of the articles of incorporation;
- 8) The name of the owner and/or operator of the entity, including:
 - A) The name of the person, if a person;
 - B) The name of each partner and the name of the partnership, if a partnership;
 - C) The name and title of each corporate officer and director, the corporate names, the name of the state where incorporated and the name of the parent company, if any, if a corporation;
 - D) The full name of the sole proprietor and the name of the business entity, if a sole proprietorship; or
 - E) The full name and title of each member with 5% or more ownership and each manager of a limited liability company and the name of the state where organized and a copy of the articles of organization and the name of any parent company, if any.
- 9) The fee set forth in Section 1353.70 of this Part;
- 10) Certification, signed by an authorized representative of the entity, indicating that the business:
 - A) maintains a physical facility and a medical equipment inventory;
 - B) maintains records of education, training and experience and annual continuing education for personnel engaged in the delivery, maintenance, repair, cleaning, inventory control and financial management of home medical equipment and services;
 - C) maintains records on all patients to whom it provides home medical equipment and services that include any training, education and other information pertinent to the use and maintenance of equipment or the services provided. The

DEPARTMENT OF PROFESSIONAL REGULATION

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provider shall have adequate security measures to maintain confidential records;

D) establishes and maintains equipment management and personnel policies such as, but not limited to, security operation, tracking and maintenance of equipment, customer service complaints;

E) complies with State and federal laws applicable to the type of services provided; and

F) provides access to emergency services 24 hours a day, 7 days a week for life sustaining home medical equipment and services.

b) A separate license is required for each facility and only one license will be issued per address where business is conducted.

c) When the address or name of a facility is changed, the licensee shall be required to notify the Department, obtain a corrected license and pay the required fee set forth in Section 1253.70.

d) Changes in person in charge of day to day operation shall be submitted to the Department, on forms provided by the Department, within 30 days after such change.

e) The Department reserves the right to deny a license to an applicant if it determines that the granting of the license would not be in the public interest.

f) An applicant may be required to appear before the Board to further evaluate the entity's qualifications for licensure.

Section 1253.30 Personnel

The provider shall employ personnel with the education, training and experience necessary to safely and lawfully provide home medical equipment and services. The training shall be appropriate to the equipment and scope of services provided by the individual. As a condition for receiving and retaining a provider license, the licensee shall require each person employed in the home medical equipment and services business to have education, training and experience, or any combination thereof, sufficient for that person to perform the assigned functions. The licensee is responsible for ensuring that employees complete continuing education on an annual basis. Documentation of this education, training, experience and continuing education shall be maintained by the provider in the employee file.

Section 1253.40 Laws Applicable to Home Medical Equipment and Service Providers

No registrant shall violate any of the following laws or regulations or other State and federal laws that apply to the type of home medical equipment and services provided:

- a) Illinois Food, Drug and Cosmetic Act [410 ILCS 620].
- b) Federal Food, Drug and Cosmetic Act [21 USC 301 et seq. (1976)].
- c) Occupational Safety and Health Standards (OSHA).

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d) Department of Transportation federal regulations (49 CFR).

Section 1253.50 Change of Ownership

a) When the business changes ownership, a new application shall be filed with the Department in accordance with Section 1253.20.

b) Change of ownership is defined as, but not limited to:

- 1) whenever the controlling entity of the licensee changes; or
- 2) change in the legal form under which the controlling entity is organized.

Section 1253.60 Change of Operations

a) The license shall not be valid:

- 1) When the business ceases operation;
- 2) When the entity ceases to operate under the name on the license;
- 3) When the insurance is nonrenewed or cancelled; or
- 4) When the license is revoked.

b) The licensee shall notify the Department in writing within 30 days when the business ceases to operate or ceases to operate under the name on the certificate.

c) In the event of a change of the business name, the licensee shall apply for a corrected license in advance of the effective date of such change by notifying the Department, on forms provided by the Department, and paying the appropriate fee as set forth in Section 1253.70.

d) All notices required by this Section shall be sent to the Department at 320 West Washington, 3rd Floor, Springfield, Illinois 62786.

Section 1253.70 Fees

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees. The fee for application for a license as a home medical equipment and services provider is \$300.
- b) Renewal Fees. The fee for the renewal of a license shall be calculated at the rate of \$100 per year.
- c) General Fees.

1) The fee for a certification of a licensee's record for any purpose is \$20.

2) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

3) The fee for a roster of persons licensed as home medical equipment and service providers in this State shall be the actual cost of producing the roster.

4) The fee for issuance of a duplicate license, a replacement license for a license that has been lost or destroyed, or a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address

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- changes on Department records when no duplicate license is issued.
- 5) The fee for the issuance of a license with a change of name or a change of address is \$150.
 - 6) The fee for a change in the person in charge of the day to day operation is \$25.

Section 1253.80 Renewals

- a) The first renewal period for registration issued under the Act shall be March 2003 and every three years thereafter. The holder of a registration may renew the registration 60 days prior to the expiration date by filing an application with the Department including:
 - 1) Proof of \$1,000,000 commercial general liability insurance, including but not limited to coverage for product liability and professional liability; and
 - 2) the required fee set forth in Section 1253.70.
- b) If a licensee is currently certified by a recognized national accrediting body such as JCAHO and ACEA, proof of such accreditation shall be submitted with the renewal. If a licensee does not submit the certification or is not certified by a recognized accrediting body, the Department shall inspect the facility pursuant to Section 90 of the Act.
- c) It is the responsibility of each registrant to notify the Department of any change of mailing address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

Section 1253.90 Professional Conduct Standards

- a) The Department may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action, based upon its finding of dishonorable, unethical, or unprofessional conduct within the meaning of Section 75 of the Act which is interpreted to include, but is not limited to, the following acts or practices:
 - 1) Practicing, condoning, facilitating or collaborating with any form of discrimination against any person or group on the basis of race, color, sex, sexual orientation, age, religion, national origin, marital status, political belief, mental or physical handicap, or any other preference or personal characteristic, condition or status.
 - 2) Failing to offer all facts regarding services or equipment to the client prior to administration of services (such as proper use and maintenance of equipment, warranty information, etc.). Patients and caregivers shall be informed of their rights and obligations regarding the sale, rental, and service of home medical equipment.

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- 3) Failing to protect the privacy of patient information and disclosing such information without proper authorization, except as required by law.
- 4) Performing or allowing employees to perform professional services beyond their scope of practice and competency.
- 5) Failing to establish and maintain client records.
- 6) Submission of fraudulent claims for services to any person or entity including, but not limited to, health insurance companies or health service plans or third party payors.
- b) The Department hereby incorporates by reference "Code of Ethics", November 1998, approved by the National Association for Medical Equipment Services (NAMESES), 625 Slaters Lane, Suite 200, Alexandria, Va 22314-1171, and by the Illinois Association of Medical Equipment Services, c/o IHCC, 222 West Ontario, Suite 420, Chicago, IL 60610, with no later amendments or editions.

Section 1253.100 Granting Variances

- a) The Director of the Department may grant variances from these rules in individual cases when he/she finds that:
 - 1) The provision from which the variance is granted is not statutorily mandated;
 - 2) No party will be injured by the granting of the variance; and
 - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the Board of the granting of the variance, and the reasons therefor, at the next meeting of the Board.

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- 1) Heading of the Part: Optometric Practice Act of 1987

- 2) Code Citation: 68 Ill. Adm. Code 1320

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1320.20	Amendment
1320.30	Amendment
1320.50	Amendment
1320.70	Amendment
1320.80	Amendment
1320.90	Amendment
1320.100	Amendment
1320.200	Amendment
1320.220	Amendment
1320.230	Amendment
1320.240	Amendment
1320.250	Amendment
1320.300	Amendment
1320.310	Amendment
1320.320	Amendment
1320.340	Amendment
1320.350	Amendment

- 4) Statutory Authority: The Illinois Optometric Practice Act of 1987 [225 ILCS 80].

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking implements Public Act 91-141, to clarify that vision screening conducted by charitable organizations be conducted without a fee and to require all applicants, not just new graduates, to apply for and be qualified to receive certification to use diagnostic and therapeutic ocular pharmaceuticals. Section 1320.40 will no longer require endorsement applicants to supply a copy of another state's acts and rules in effect at the time of original licensure, although the Department retains the ability to require it if questions arise. Section 1320.70 reduces the required continuing education for restoration of a license to 30 hours rather than 24 hours for each 2-year period the license was not active. Section 1320.310 removes the requirement that the 30-hour therapeutic ocular pharmaceutical course must be taught by medical faculty. Various technical and clean-up changes have also been made.

- 6) Will these proposed amendments replace emergency rules currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

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- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.

- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813

All written comments received within 45 days of this issue of the Illinois Register will be considered.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing the services of optometrists.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: Optometry skills are required for licensure.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
 SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1320

OPTOMETRIC PRACTICE ACT OF 1987

SUBPART A: OPTOMETRY

Section

1320.20 Approved Programs of Optometry

1320.30 Application for Licensure

1320.40 Examinations

1320.45 Fees (Emergency Expired)

1320.50 Endorsement

1320.55 Renewals (Renumbered)

1320.60 Inactive Status

1320.70 Restoration

1320.80 Continuing Education

1320.90 Minimum Eye Examination

1320.95 Minimum Equipment List

1320.100 Practice of Optometry

1320.110 Advertising

1320.120 Granting Variances (Renumbered)

SUBPART B: DIAGNOSTIC TOPICAL OCULAR PHARMACEUTICALS

Section

1320.200 Standards

1320.210 Application for Diagnostic Certification

1320.220 Approved Diagnostic Topical Ocular Pharmacological Training

1320.230 Approved Diagnostic Topical Ocular Pharmaceutical Agents Pursuant to

Section 15.1 of the Act

1320.240 Restoration of Diagnostic Certification

1320.250 Endorsement of Diagnostic Certification

1320.260 Renewal of Certification (Repealed)

1320.270 Display of Certification (Repealed)

SUBPART C: THERAPEUTIC OCULAR PHARMACEUTICAL AGENTS

Section

1320.300 Definitions and Standards

1320.310 Application for Therapeutic Certification

1320.315 Controlled Substance License Requirement

1320.320 Approved Therapeutic Ocular Training

1320.330 Approved Therapeutic Ocular Pharmaceutical Agents Pursuant to

Section 15.1 of the Act

1320.340 Restoration of Therapeutic Certification

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1320.350 Endorsement of Therapeutic Certification

SUBPART D: GENERAL

Section

1320.400 Fees

1320.410 Ancillary Licenses

1320.420 Renewals

1320.430 Granting Variances

AUTHORITY: Implementing the Illinois Optometric Practice Act of 1987 [225 ILCS 80] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 5 Ill. Reg. 5869, effective June 1, 1981; codified at 5 Ill. Reg. 11046; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2273, effective January 29, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 10032, effective August 1, 1982; amended at 9 Ill. Reg. 1092, effective January 11, 1985; amended at 10 Ill. Reg. 7340, effective April 16, 1986; transferred from Chapter I, 68 Ill. Adm. Code 320 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1320 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 1821; emergency amendment at 12 Ill. Reg. 1925, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11447, effective June 27, 1988; amended at 13 Ill. Reg. 6994, effective April 25, 1989; amended at 14 Ill. Reg. 14128, effective August 15, 1990; amended at 17 Ill. Reg. 18096, effective October 4, 1993; amended at 17 Ill. Reg. 21501, effective December 1, 1993; amended at 19 Ill. Reg. 17150, effective December 19, 1995; amended at 20 Ill. Reg. 9068, effective July 1, 1996; amended at 21 Ill. Reg. 16040, effective November 24, 1997; amended at 23 Ill. Reg. 5744, effective April 30, 1999; amended at 24 Ill. Reg. _____, effective _____.

SUBPART A: OPTOMETRY

Section 1320.20 Approved Programs of Optometry

a) The Department of Professional Regulation (the Department) shall, upon the recommendation of the Illinois Optometric Licensing and Disciplinary Committee (the Committee), approve an optometry program if it meets the following minimum criteria:

- 1) The educational institution is legally recognized and authorized by the jurisdiction in which it is located to confer the Doctor of Optometry degree.
- 2) Has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the students are fulfilled. The faculty must have demonstrated

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competence in their area of teaching as evidenced by appropriate degrees from professional colleges or institutions.

- 3) Has a curriculum of at least the following subject areas:

Basic Science, including Anatomy, Physiology and Biochemistry

Psychological-Optics

Practical Optics

Anatomy and Physiology of the Eye

Pathology of the Eye

Physiological Optics

Theoretical Optometry

Practical Optometry

Clinical Optometry

Theory and Practice of Contact Lens Fitting

Pharmacology

Diagnosis, treatment and management of ocular disease and recognition of systemic diseases with ocular symptoms

- 4) Has a course of study of 4 academic years above the undergraduate level.

- 5) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

- b) In determining whether a school or college should be approved, the Department shall take into consideration but not be bound by accreditation by the Council on Optometric Education.

- c) Procedures taught in schools and colleges of optometry approved by the Department that are considered for approval in the practice of optometry shall be adopted pursuant to rule or regulation by the Department upon recommendation of the Committee. Before adoption of such rules or regulations, the Committee shall first evaluate the procedure in accordance with criteria it has previously adopted. Furthermore, the Committee shall specify training and demonstration of competency required before an optometrist may perform such procedures. In any event, the Department, upon recommendation of the Committee, has determined that surgery, including surgery performed with a laser, is not an optometric procedure.

- d) Program Evaluation

- 1) An applicant from an optometry program that has not been evaluated will be requested by the Department to provide documentation concerning the criteria in this Section.

- 2) Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever comes first, the Committee will evaluate the program based on all documentation received from the school and any additional information the Department has received which it deems to be reliable.

- e) Withdrawal of Approval

- 1) The Director may, upon a written recommendation submitted by the

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Committee, withdraw, suspend or place on probation the approval of an optometry program when the quality of the program has been materially affected by any of the following causes:

- A) Gross or repeated violations of any provision of the Illinois Optometric Practice Act of 1987 [225 ILCS 80] (the Act);

- B) Gross or repeated violations of any of this Part;

- C) Fraud or dishonesty in furnishing documentation for evaluation of the optometry program; or

- D) Failure to continue to meet the established criteria of an approved optometry program as set out in this Section.

- 2) An optometry program whose approval is being reconsidered by the Department shall be given written notice prior to any recommendation by the Committee and the officials in charge may either submit written comments or request a hearing before the Committee in accordance with 68 Ill. Adm. Code 1110.

- f) The Department, upon the recommendation of the Committee, has determined that optometry programs accredited by the Council on Optometric Education as of January 1, 1996, meet the minimum criteria set forth in subsection (a) above and are, therefore, approved.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.30 Application for Licensure

- a) An individual applying for a license to practice optometry shall file an application on forms supplied by the Department. The application shall include:

- 1) Certification of graduation from a 4-year optometry graduate level program approved by the Department in accordance with Section 1320.20;

- 2) Certification of passage of the National Board of Examiners in Optometry (NBEO) examinations as set forth in Section 1320.40. The applicant shall have the examination scores submitted to the Department directly from NBEO;

- 3) A complete work history since graduation from an optometry program;

- 4) Certification of licensure from all United States jurisdictions in which the applicant has ever been licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of original issuance of the license;

- B) A description of the licensure examination in that jurisdiction;

- C) Whether the file on the applicant contains any record of disciplinary actions taken or pending; and

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- 5) The required fee set forth in Section 1320.400 of this Part.
- b) Individuals applying for an initial original optometry license in Illinois after January 1, 1996 shall also be required to apply for and maintain certification for use of diagnostic topical ocular pharmaceutical agents in accordance with Subpart B and therapeutic ocular pharmaceutical agents in accordance with Subpart C.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.50 Endorsement

- a) An applicant who is licensed under the laws of another jurisdiction shall file an application with the Department together with:

- 1) Certification of graduation from an optometry program approved by the Department in accordance with Section 1320.20;
- 2) Certification of licensure from all jurisdictions in which the applicant has ever been licensed, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
- B) A description of the licensure examination in that jurisdiction;
- C) Whether the records of the licensing entity contains any record of disciplinary actions taken or pending against the applicant;

- 3) ~~A copy of the acts and rules in effect at the time of original licensure;~~

- 3) ~~4) Certification of passage of Part I and Part II, including passage of the Treatment and Management of Ocular Disease (TMOD) section after January 1, 1996, of the National Board of Examiners in Optometry (NBOE) examination, by NBOE standards;~~

- 4) ~~5) Certification of passage of Part III of the examination administered by NBOE, by NBOE standards, or a comprehensive practical examination administered in another jurisdiction equivalent to the comprehensive practical examination administered by the Department prior to July 1991;~~

- 5) ~~6) A complete work history since graduation from an optometry program; and~~

- 6) ~~7) The required fee as set forth in Section 1320.400.~~

- b) The Department shall examine each endorsement application to determine whether the requirements in the jurisdiction at the date of licensure were substantially equivalent to the requirements then in force in this State. The applicant may be required to submit a copy of the act and rules in effect at the time of original licensure. If an applicant has taken a licensure examination other than Part I and Part II of the National Board prior to 1970, the examination and results will be required by the Committee to determine that substantially

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equivalent requirements have been met. The Department shall within a reasonable time either issue a license by endorsement to the applicant or notify him/her of the reasons for the denial of the application.

- c) The Department may, in individual cases, upon recommendation of the Committee, in accordance with Section 12 of the Act, waive the comprehensive practical examination for an applicant for endorsement, after full consideration of his/her optometric education, training and experience, including, but not limited to, whether he/she has achieved special honors or awards, has had articles published in professional journals, has participated in writing textbooks relating to optometry, and any other attribute which the Committee accepts as evidence that such applicant has outstanding and proven ability in optometry.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.70 Restoration

- a) A licensee seeking restoration of a license after it has expired or been placed on inactive status for more than 3 years shall file an application, on forms supplied by the Department, together with:

- 1) Proof of completion of 30 the required number of continuing education (CE) hours during the 2 years prior to restoration for all pre-renewal periods for which the license was expired or on inactive status as specified in accordance with Section 1320.80 of this Part. Acceptable proof of completion shall be in the form of certificates of attendance provided by sponsors of approved continuing education programs; and
- 2) The proper fees, either:
 - A) The restoration fee(s), when restoring an expired license, specified in Section 1320.400(c)(1) of this Part; or
 - B) The renewal fee(s), when restoring an inactive license, specified in Section 1320.400(b)(1) of this Part.

- b) In addition to satisfying the requirements of subsection (a) above, the licensee shall also submit either:
- 1) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice;

- 2) An affidavit attesting to military service as provided in Section 16 of the Act. If application is made within 2 years of discharge, and if all other provisions of Section 16 of the Act are satisfied, the applicant will not be required to pay a restoration fee or any lapsed renewal fees;

- 3) Evidence of other education or experience acceptable to the Department of the licensee's fitness to have the certificate restored. Such evidence shall be reviewed on a case by case

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basis by the Committee; or

4) Certification of passage of Part III of the examination administered by NBO, by NBO standards. The Committee may, in its discretion and in individual cases, make a recommendation to the Director for the waiver of the clinical skills examination or Part III of the examination in accordance with Section 11 of the Act based on quality of education, training and experience including, but not limited to, special honors and awards, articles published in optometry journals, writing or participation in the writing of textbooks in optometry or any other circumstances or attribute which the Committee accepts as evidence that such applicant has outstanding and proven ability in optometry.

c) A licensee seeking restoration of a license that has expired or been on inactive status for less than 3 years, or has been placed in nonrenewed status for failure to comply with continuing education (CE) requirements shall file an application on forms provided by the Department, together with:

1) Proof of completion of 30 the--~~required~~--number--of continuing education (CE) hours during the 2 years prior to restoration for ~~all--prereneal--periods--for--which--the--license--was--on--inactive status--as--specified--in accordance with Section 1320.80 of this Part.~~ Acceptable proof of completion shall be in the form of certificates of attendance provided by sponsors of approved continuing education programs; and

2) The restoration fee(s) specified in Section 1320.400 of this Part. For the purpose of restoring from inactive status the Department shall consider that no renewal fees have lapsed during the period of inactive status.

d) Any person seeking restoration of a license within 2 years of discharge from military service pursuant to Section 12 of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the continuing education requirements.

e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is reasonably questioned by the Department because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration of the license will be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for interview(s) before the Committee when the information available to the Committee is insufficient to evaluate the individual's current competency to practice under the Act. Upon the recommendation of the Committee, and approval by the Department, an applicant shall have the license restored.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 1320.80 Continuing Education

a) Continuing Education Hour Requirements

1) Every renewal applicant shall complete 24 hours of Continuing Education (CE) relevant to the practice of optometry required during each prereneal period. A prereneal period is the 24 months preceding March 31 in the year of the renewal. For the March 31, 1998 renewal and every renewal thereafter, optometrists who hold certification for therapeutic ocular pharmaceuticals shall, in addition to the 24 hours of CE, complete 6 hours of certified CE in the treatment of ocular disease during the prereneal period as set forth in subsection (b)(3).

2) A CE hour equals 50 minutes. After completion of the initial CE hour, credit may be given in one-half hour increments.

3) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.

4) Optometrists licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.

b) Approved Continuing Education

1) All continuing education hours must be earned by verified attendance at or participation in a program which is offered by an approved continuing education sponsor who meets the requirements set forth in subsection (c).

2) For the March 31, 1992, renewal and every renewal thereafter, as part of the 24 hours of required continuing education, each licensee shall complete during each prereneal period at least 6 hours of credit which is certified by an approved optometry college in accordance with Section 1320.20 of this Part, osteopathic or medical college or university pursuant to the Medical Practice Act of 1987 [225 ILCS 60], or a pharmacy college pursuant to the Pharmacy Practice Act [225 ILCS 85].

A) Each certified course shall include at least 2 hours of actual course presentation and shall include the successful completion of a post-course evaluation of the attendee's understanding of the course material. ~~No A-maximum-of--one half--hour additional credit may~~ will be given for the required post course evaluation.

i) The post-course evaluation may be taken on-site immediately following the course presentation. An examination distributed on-site shall not be removed from the site.

ii) The post-course evaluation may be a correspondence evaluation mailed to the attendee and returned to the provider. The sponsor shall not distribute a post-course evaluation at the site.

iii) At the sponsor's discretion, the attendee may be

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allowed one retake of a failed post-course evaluation in order to receive credit as certified continuing education.

- B) Licensees who attend a certified education course without passage of a post-course evaluation may apply actual course hours toward fulfillment of the additional continuing education requirements as set forth in subsections (b)(1) and (b)(3).

- C) Any approved continuing education sponsor may offer, in conjunction with the above-referenced college or university, a certified course. Effective April 1, 1996, certified continuing education shall not be provided, sponsored, co-sponsored or in any way be supported or financially underwritten by a CE sponsor or others who receive patient referrals from those in attendance. Approved optometry programs ~~institutions~~ in subsection (b)(2) are not deemed in violation of this Section. Nothing in this Section shall prohibit the listing of courses in a professional journal or newsletter.

- D) Transcript quality continuing education courses shall be deemed equivalent to the certified courses if they meet the requirements set forth in subsection (b)(2)(A) above.

- E) Continuing education sponsors shall state in their course materials the type of post-course evaluation which will be given and whether the applicant will be allowed to retake the evaluation.

- F) Certified continuing education courses shall be courses in which the attendees are in actual attendance. No self instruction or correspondence courses shall be considered certified continuing education courses.

- 3) Six hours of certified CE courses in the treatment of ocular disease are required for licensees who are certified for therapeutic ocular pharmaceuticals in addition to the 24 CE hours required to renew an optometry license.

- A) ~~For the period ending March 31, 1998, a minimum of 2 hours shall be in the study of glaucoma.~~

- A) ~~B) The certified therapeutic CE courses shall meet the same requirements set forth in subsection (b)(2) above.~~

- B) ~~C) An optometrist who has completed the 120 hour therapeutic training set forth in Section 1320.300 during the prerenewal period will be considered to have met the CE requirements for that renewal period.~~

- 4) Eighteen hours of CE credit may be earned as follows (not accepted for certified CE):

- A) A maximum of 12 hours per prerenewal period for papers prepared and delivered before recognized optometric organizations, papers published in nationally recognized optometric journals, or a chapter in a book of optometry,

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each appropriately verified.

- B) A maximum of 12 hours per prerenewal period for verified teaching of students at an optometric school approved by the Department, or practicing optometrists in CE programs approved by the Department. One hour of teaching at an optometry school approved by the Department is equal to one hour of continuing education.

- C) A maximum of 2 hours per prerenewal period for verified self-instruction that is sponsored or cosponsored by any previously approved optometry college, institution or national, state or local optometry association.

- D) A maximum of 4 hours per prerenewal period for courses in practice management which includes business management.

- E) A maximum of 2 hours of continuing education in cardiopulmonary resuscitation certified by the American Red Cross, American Heart Association or an Illinois licensed hospital or an approved medical or optometric institution may be earned per prerenewal period.

- 5) For only one prerenewal period for the duration of an optometry license in Illinois, a licensee may take a 4 hour certified continuing education course in cardiopulmonary resuscitation to satisfy 4 of the 6 hours of certified continuing education required in subsection (b)(2) above.

- 6) Continuing education credit hours used to satisfy the CE requirements of another state may be submitted for approval for fulfillment of the CE requirements of the State of Illinois.

- 7) Credit shall not be given for courses taken in Illinois from unapproved sponsors.

- c) Continuing Education Sponsors and Programs

- 1) Sponsor, as used in this Section, shall mean a person, firm, association, corporation, or any other group that has been approved and authorized by the Department upon the recommendation of the Optometric Licensing and Disciplinary Board to coordinate and present continuing education courses or programs.

- 2) A sponsor shall file a sponsor application, along with the required fee set forth in Section 1320.400(a)(6), which includes:

- A) Certification:

- i) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in this Section;

- ii) That the sponsor will be responsible for verifying attendance at each course or program and for providing a certificate of completion as set forth in subsection (b);

- iii) That upon request by the Department, the sponsor will submit such evidence as is necessary to establish compliance with this Section; ~~Such evidence shall be required when the Department has reason to believe~~

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~~that there is not full compliance with the statute and this part and that this information is necessary to ensure compliance;~~

- iv) That each sponsor shall submit to the Department a written notice of a course offering 30 days prior to the course date. The notice shall include the description, location, date and time of the course to be offered;

- B) A history and the experience of the sponsor as an educational provider;

- C) A copy of a sample program with faculty, course materials and syllabi;

- D) The name and address of the contact person responsible for all recordkeeping; and

- E) A list of all principals of the organization applying for a sponsor license.

- 3) Each sponsor shall submit by March 31 of each even numbered year a sponsor application along with the required fee set forth in Section 1320.400(b)(3) of this Part. With the application the sponsor shall be required to submit to the Department a list of all courses and programs offered in the prerenewal period, which includes a description, location, date and time the course was offered.

- 4) All courses and programs shall:

- A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of optometry;

- B) Provide experiences that contain scientific integrity, relevant subject matter and course materials; and

- C) Be developed and presented by persons with education and/or experience in subject matter of the program.

- 5) The tuition fees charged for programs conducted by approved sponsors shall be reasonable and directly related to the sponsor's actual expense in conducting the programs.

- 6) All programs given by approved sponsors shall be open to all licensed optometrists and not be limited to the members of a single organization or group and shall specify the number of CE hours and categories that may be applied toward Illinois CE requirements for licensure renewal.

- 7) Certificate of Attendance

- A) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance signed by the sponsor. The sponsor's certificate of attendance shall contain:

- i) The name, sponsor number and address of the sponsor;
- ii) The name of the participant and his/her optometry license number;
- iii) A detailed statement of the subject matter;

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- iv) The number of hours actually attended in each topic;
- v) The date of the program;
- v) Whether the course qualifies for certified continuing education and if the post-course evaluation was passed or failed.

- B) The sponsor shall maintain these records for not less than 5 years. These records shall include all test materials utilized for certified courses.

- 8) The sponsor shall be responsible for assuring verified continued attendance at each program. No renewal applicant shall receive CE credit for time not actually spent attending the program.
- 9) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Department, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Department receives reasonably satisfactory assurances of compliance with this Section.

- d) Continuing Education Earned in Other States

- 1) If a licensee has earned CE hours in another jurisdiction for which he/she will be claiming credit toward full compliance in Illinois, the applicant shall submit an out of state CE approval form along with a \$20 processing fee prior to the program or within 90 days prior to the expiration of the optometry license after completion of the program. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.

- 2) If a licensee fails to submit an out of state CE approval form within the required 90 days, late approval may be obtained by submitting the application along with the \$20 processing fee plus a \$50 per hour late fee not to exceed \$300. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.

- 3) The Board has determined that the Council on Optometric Practitioner Education (C.O.P.E.) approved courses are acceptable for out of state continuing education. If a licensee attends an out of state C.O.P.E. approved course, the licensee will not be required to submit the out of state CE approval form and the \$20 processing fee.

- e) Certification of Compliance with CE Requirements

- 1) Each renewal applicant shall certify, on the renewal application, full compliance with CE requirements set forth in subsection (a) above.

- 2) The Department may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance.

- 3) When there appears to be a lack of compliance with CE

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requirements, an applicant will be notified and may request an interview with the Board, at which time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

f) Waiver of CE Requirements

- 1) Any renewal applicant seeking renewal of his/her license without having fully complied with these CE requirements shall file with the Department a renewal application, the renewal fee set forth in Section 1320.400(b)(1), a statement setting forth the facts (including time frames) concerning such non-compliance, and a request for waiver of the CE requirements on the basis of such facts. If the Department, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted, that good cause has been shown for granting a waiver, the Department shall waive enforcement of such requirements for the renewal period for which the applicant has applied.

- 2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

- A) Full time service in the armed forces of the United States of America during a substantial part of such period; or
- B) Extreme hardship, which shall be determined on an individual basis by the Board and shall be limited to documentation of:
 - i) An incapacitating illness documented by a currently licensed physician,
 - ii) A physical inability to travel to the sites of approved programs, or
 - iii) Any other similar extenuating circumstances.

- 3) If an interview with the Board is requested at the time the request for such waiver is filed with the Department, the renewal applicant shall be given at least 20 days written notice of the date, time and place of such interview by certified mail, return receipt requested.

- 4) Any renewal applicant who submits a request for waiver pursuant to subsection (f)(1) of this Section shall be deemed to be in good standing until the Department's final decision on the application has been made.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.90 Minimum Eye Examination

In the absence of good clinical reasons to the contrary as documented in the record, the following minimum examination shall be performed and findings recorded by an optometrist, and he/she shall keep a record thereof for a period of 3 years:

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- a) Complete case history.
- b) Visual acuity at distance.
 - 1) Unaided (mono plus binocular).
 - 2) Last prescription or habitual prescription (mono plus binocular).
- c) External examination, including pupil reactivity.
- d) Internal examination (ophthalmoscopic examination).
- e) Retinoscopy.
- f) Refractive status.
 - 1) Subjective refraction to best visual acuity at distance.
 - 2) Subjective refraction at near.
- g) Measurement of binocularity: including vergences, phoric and accommodative ability.
- h) Color vision screening.
- i) Glaucoma screening including tonometry.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.100 Practice of Optometry

- a) The practice of optometry as defined in Section 3 of the Act shall include, but not be limited to, the following functions:

- 1) Prescribing and fitting of any ophthalmic lenses including contact lenses.
- 2) Retinoscopy.
- 3) Tonometry.
- 4) Keratometry.
- 5) Subjective lens testing.
- 6) Phoria testing.
- 7) Biomicroscopy.
- 8) Ophthalmoscopy.
- 9) Electronic or computerized examination techniques that utilize devices that perform any of the above functions.
- 10) Visual screening.
- 11) Diagnosis and treatment of any ocular abnormality, disease or visual or muscular anomaly of the human eye or visual system.

b) Visual Screening

- 1) Nothing in this Section shall prohibit visual screening conducted without a fee other than a voluntary donation by a charitable organization or governmental agency, acting in the public welfare under the supervision of a committee composed of persons licensed by the State to practice optometry or medicine in all of its branches.

- 2) Visual screening is defined as a limited series of ocular observations, measurements or tests provided without a fee to determine if a complete eye examination, as described in Section 1320.90, by a licensed optometrist or a physician licensed to practice medicine in all of its branches, is recommended.

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- 3) When a licensed optometrist performs public service visual screening screenings is performed or visual screenings for governmental agencies, the recipient of the screening shall be clearly informed in writing and shall receive a copy of the following:
 - A) Results and limitations of the screening;
 - B) That the screening is not representative of or a substitute for an eye exam;
 - C) That the screening will not result in a prescription for visual correction; and
 - D) That visual screening referral criteria for a complete eye examination must meet accepted optometric professional standards criteria.
- E) The name and address of the charitable organization sponsoring the screening and the chairperson of the supervisory committee.
- 4) A copy of the screening results shall be maintained for three years by the chairperson of the supervisory committee or the optometrist performing the screening.
- c) No ophthalmic lenses, prisms, or contact lenses may be sold or delivered to an individual without a prescription signed by a licensed optometrist or a physician licensed to practice medicine in all of its branches.
- d) The following acts shall not be performed by an individual not licensed in this State as an optometrist or to practice medicine in all of its branches except while acting under the direct supervision of a person so licensed:
 - 1) Conducting or performing examinations of the human eye or its appendages employing either objective or subjective means, or both for the purpose of adapting contact lenses to the eyes of any person;
 - 2) Using instruments or appliances of any type to determine the curvatures of the eye or of the cornea of any person for the purpose of ordering or supplying contact lenses for such person;
 - 3) Determining, selecting or specifying the lens characteristics or the lens curvatures of contact lenses to be supplied to any person;
 - 4) Converting, altering, or varying in any manner a prescription for contact lenses prepared by an optometrist or a person licensed to practice medicine in all its branches in this State;
 - 5) Converting, altering, or varying in any manner a prescription for spectacles prepared by an optometrist or a person licensed to practice medicine in all of its branches in this State for the purpose of converting such prescription for spectacles into a prescription for contact lenses;
 - 6) Inserting, removing, adjusting or adapting contact lenses for the purpose of selecting, specifying or furnishing contact lenses for use by any person;

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- 7) Conducting or performing any examination of the human eye or its appendages employing either objective or subjective means or both for the purpose of determining the effects which may have resulted from wearing contact lenses by any person;
- 8) Where a person has been provided with contact lenses pursuant to a prescription by an optometrist or a person licensed to practice medicine in all of its branches in this State, adjusting, adapting or changing the lens characteristics or the lens curvatures of such contact lens in any manner whatsoever;
- 9) Advertising, representing or informing the general public by any means, including, but not limited to, display advertising in newspapers and telephone directories within the State of Illinois, that he/she will fit or adapt contact lenses for the use of any person.
- e) Direct supervision of any person assisting an optometrist means:
 - 1) The optometrist personally performs those procedures requiring professional judgment. Professional judgment requires that the optometrist shall perform those procedures for the diagnosis and treatment of anomalies of the eye, adnexa, and the visual system, including for example, but not limited to, biomicroscopy, ophthalmoscopy, all therapeutic procedures and the prescribing of any ophthalmic lenses, including contact lenses.
 - 2) The optometrist shall specify all procedures to be performed by the assistant.
 - 3) The optometrist is present in the facility while the assistant performs the procedure (does not mean that the optometrist must be present with the patient while the specified procedures are being performed).
 - 4) The optometrist approves the results of the procedures performed by the assistant before dismissal of the patient.
 - f) Requirements for the minimum eye exam as outlined in Section 1320.90 are still applicable and are not changed or altered by the above provisions.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART B: DIAGNOSTIC TOPICAL OCULAR PHARMACEUTICALS

Section 1320.200 Standards

- a) An optometrist's certification to use diagnostic topical ocular pharmaceutical agents for examination purposes shall be revoked, suspended and/or placed on probation and fines may be levied by the Department upon recommendation of the Board of Examiners based upon any of the following causes:
 - 1) The use of any diagnostic topical ocular pharmaceutical agent that has not been approved for use by the Department;

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- 2) The misuse of any diagnostic topical ocular pharmaceutical agent where the optometrist knew or should have known that such use was improper or contraindicated;
 - 3) The use of any diagnostic topical ocular pharmaceutical agents for patients who have had intraocular lens implants except for the use of Proparacaine HCL (0.5%) and Benoxinate HCL (0.4%) for assisting in the measurement of intraocular pressure, except by licensed optometrists certified in therapeutic ocular pharmaceutical agents pursuant to Subpart C;
 - 4) The use of any topical ocular pharmaceutical agents for children who are less than 2 years of age, except by licensed optometrists certified in the use of therapeutic ocular pharmaceutical agents pursuant to Subpart C; or
 - 5) Any other violation of the Act or this Part.
- b) In determining what constitutes grave or repeated misuse of any topical ocular pharmaceutical agent, the Board ~~Committee~~ shall consider the following standards as they relate to the person who is the subject of the proposed disciplinary action. The standards shall include but not be limited to:
- 1) A consideration whether the act or acts of the person are of a glaringly obvious nature or are repetitiously committed and resulted in a breach of standards of practice;
 - 2) A consideration that said act or acts committed constituted a breach of standards of practice to possess and apply knowledge, skill and care in using approved diagnostic topical ocular pharmaceutical agents for the purpose of aiding the diagnosis of abnormal conditions that are ordinarily used by an optometrist certified under Section 15.1 of the Act.
 - 3) A consideration that a mere mistake which is not indicative of a lack of knowledge, skill and care does not constitute misuse. Nor is a bad or unexpected result evidence of misuse unless such a result would not ordinarily occur in the absence of misuse.
 - 4) A consideration that in determining the applicable standard of use, the Board ~~Committee~~ shall consider the opinion and the testimony of experts.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.220 Approved Diagnostic Topical Ocular Pharmacological Training

The Department shall, upon the recommendation of the Board ~~Committee~~, approve a program of diagnostic topical ocular pharmacological training that meets the following minimum requirements:

- a) The program has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the students are fulfilled. The faculty must have demonstrated competence in their area of teaching as evidenced by appropriate

degrees from accredited colleges or institutions;
b) The program has a curriculum of at least the following subject areas:

- 1) General principles of drug action
 - A) Definition of terms
 - i) Drug
 - ii) Pharmacology
 - B) Medical uses of drugs
 - i) Therapeutic drugs
 - ii) Symptomatic therapeutic agents
 - iii) Prophylactics
 - iv) Adjunctives
 - v) Diagnostics
 - C) Non-medical uses of adjunctives
 - D) Dose-response relationships
 - i) By drug classification
 - ii) Consideration of polyvalence--main effects and side effects
 - E) Drug disposition
 - F) Concepts of potency, toxicity, safety, tolerance
- 2) Routes of drug administration
 - A) Systemic
 - B) Topical
- 3) Dosage forms
 - A) Comparative properties
 - B) Prescription (legend) products and over-the-counter (OTC) products
- 4) Sources of drug information
 - A) Composition of commercial products
 - B) Generic--trade name equivalents
 - C) Indications and adverse effects
 - D) Drug regulations
- 5) Specific drug classes
 - A) Miotics, mydriatics and cycloplegic drugs
 - i) Neurotransmitter functions
 - ii) Drug modification of transmitter functions
 - iii) Clinical uses
 - B) Drugs used to treat glaucoma
 - C) Local anesthetics
 - i) Chemical nature
 - ii) Sites of administration
 - iii) Mechanisms of action
 - iv) Duration and toxicity
- D) Problems of sterility, disinfection and asepsis related to optometric practice
 - E) Pharmaceutical agents used in ocular examination
- 6) Ocular side effects of drugs systemically administered
 - A) Relationship of age, amount given, health and idiosyncrasies
 - B) Drugs in current use

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- c) Drugs of current abuse
- 7) Over-the-counter ophthalmic preparation (including those used with contact lenses)
- A) Types
 - B) Consideration of preservatives in them
- 8) Anti-infective therapy
- A) Antibacterial drugs
 - B) Fungistatic drugs
 - C) Antiviral drugs
- 9) Anti-inflammatory therapy
- A) Antihistamines
 - B) Steroids
 - C) Sympathomimetic amines

10) Principles of CPR

c) The program includes a minimum of 55 instructional hours, and requires for program completion the passage of a comprehensive examination designed to test the student's knowledge of and ability to apply the program's subject matter.

d) The Department, upon the recommendation of the Board Committee, has determined that courses of pharmacological training which are an integrated part of any program of optometry approved in accordance with the provisions of Section 1320.20 of this Part meet the criteria specified herein, and are, therefore, approved.

e) Program Evaluation

1) An applicant from a diagnostic pharmacological training program that has not been evaluated will be requested by the Department to provide documentation concerning the criteria in this Section.

2) Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever comes first, the Board Committee will evaluate the program based on all documentation from the program and any additional information the Department has received which it deems to be reliable.

f) The Department may, upon the recommendation of the Board Committee, withdraw the approval of any program of pharmacological training for any of the following grounds:

- 1) Fraud or dishonesty in applying for approval;
- 2) Failure to continue to meet the criteria for an approved program as stated in this Section.

g) A program whose approval is being reconsidered shall be given written notice prior to any recommendation by the Board Committee, and the officials in charge may either submit written comments or request a hearing before the Board Committee.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.230 Approved Diagnostic Topical Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act

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a) The following diagnostic topical ocular pharmaceutical agents are approved for use by only diagnostically certified optometrists:

- 1) Proparacaine HCL (0.5%)
- 2) Benoxinate HCL (0.4%)
- 3) Tropicamide (0.5% and 1.0%)
- 4) Cyclopentolate (0.5% and 1.0%)
- 5) Atropine Sulfate (ointment) (0.5%)
- 6) Homatropine (2.0% and 5.0%)
- 7) Phenylephrine HCL (2.5%)

b) The Department shall, upon the recommendation of the Board Committee, approve other topical anesthetics, cycloplegics and mydriatics that meet the following criteria:

- 1) Such agents have been approved for topical use by the U.S. Food and Drug Administration;
- 2) Such agents offer a diagnostic alternative or advantage over the existing list of approved agents; and
- 3) Such agents have been determined, in the judgement of the Board Committee, to be beneficial with no substantial risk to the ultimate consumer.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.240 Restoration of Diagnostic Certification

a) A certification that has lapsed or been on inactive status for less than 3 years shall be restored upon application to the Department, proof of a current Illinois optometric license and payment of the required fees specified in Section 1320.400(c)(1) of this Part.

b) A certification that has lapsed or been on inactive status for more than 3 years shall be restored with proof of a current Illinois optometric license and submission of an application to the Department, which shall include the following:

- 1) Sworn evidence of active practice in another jurisdiction that allows the use of diagnostic topical ocular pharmaceutical agents. Such evidence shall include a statement from the appropriate licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice and indicates if any disciplinary action has been taken or is pending; or
- 2) Other evidence that the applicant has maintained competence in use of diagnostic topical ocular pharmaceuticals. Such evidence shall be evaluated on an individual basis by the Board Committee and may include:

- A) Teaching ocular pharmacology in an educational program approved in accordance with Section 1320.220 of this Part; or
- B) Research in ocular pharmacology, or

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- 3) proof of passage within the year preceding application of an approved training program as specified in Section 1320.220 of this Part; or
 - 4) The required fees set forth in Section 1320.400(c)(1).
- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board Committee because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration of the certification will be requested to:
- 1) Provide such information as may be necessary; and/or
 - 2) Appear for an oral interview(s) before the Board Committee to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information in order to evaluate the individual's current competency to use diagnostic topical ocular pharmaceutical agents. Upon the recommendation of the Board Committee and approval by the Department, the applicant shall have the certification restored.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.250 Endorsement of Diagnostic Certification

- a) An applicant licensed to practice optometry in another jurisdiction after January 1, 1988, shall be required to apply for and obtain certification to use diagnostic topical ocular pharmaceutical agents in conjunction with his/her optometry license.
- b) An applicant who is licensed or certified under the laws of another jurisdiction to use diagnostic topical ocular pharmaceutical agents for examination purposes shall file an application with the Department, on forms provided by the Department, together with:
 - 1) An application for licensure as an optometrist in the State of Illinois and meet the requirements set forth in the Act and Section 1320.50 for such licensure;
 - 2) A certification from the licensing authority of the jurisdiction of original licensure, and any other jurisdiction in which the applicant is licensed, stating:
 - A) The time during which the applicant was licensed in that state;
 - B) Whether the file on the applicant contains any record of any disciplinary actions taken or pending;
 - C) A description of the examination and grade received;
- 3) A description of the diagnostic topical ocular pharmaceutical training received;
- 4) A copy of the acts and rules from the original state of licensure in effect at the time of licensure; and
- 5) The required fee set forth in Section 1320.400.

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- c) An applicant who is licensed as an optometrist in another jurisdiction, whose optometry license includes the ability to use topical ocular pharmaceuticals, will be eligible to receive diagnostic topical ocular pharmaceutical certification by the Department if he/she meets the requirements set forth in subsection (b) above.
- d) The applicant may be required to appear before the Board Committee:
 - 1) To clarify or explain information contained on the submitted documentation; or
 - 2) To determine the substantial equivalence of the applicant's qualifications to the licensing requirements in this State pursuant to Section 15.1 of the Act.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART C: THERAPEUTIC OCULAR PHARMACEUTICAL AGENTS**Section 1320.300 Definitions and Standards**

- a) Ophthalmic emergency care involves an acute condition that in the judgment of the optometrist may be sight threatening, requires the optometrist to initiate nonsurgical emergency procedures and requires patient referral and consultation with another appropriate health care professional.
- b) Any optometrist certified to use therapeutic ocular pharmaceutical agents shall be authorized to purchase such drugs and to utilize and to prescribe such drugs in the regular course of practicing optometry. The use of the drugs shall be the personal act of the person certified to use therapeutic ocular pharmaceutical agents and may not be delegated to any other person. A signed written prescription for legend drugs must be presented to the patient, if applicable, and the optometrist shall be required to keep a copy of all prescriptions written.
- c) An optometrist's certification to use therapeutic ocular pharmaceutical agents may be revoked, suspended or placed on probation and fines levied by the Department upon recommendation of the Board Committee based upon any of the following causes:
 - 1) The use of any therapeutic ocular pharmaceutical agent that is not approved for use;
 - 2) The misuse of any therapeutic ocular pharmaceutical agent or procedure where the optometrist knew or should have known that such use was improper or contraindicated;
 - 3) Failure to take reasonable steps to ensure or arrange for follow-up care or for referral of a patient to an appropriate health care professional after providing ophthalmic emergency care;
 - 4) Any other violations of the Act or this Part.

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d) In determining what constitutes grave or repeated misuse of any topical ocular pharmaceutical agent, the Board ~~Committee~~ shall consider the following standards as they relate to the person who is the subject of the proposed disciplinary action. The standards shall include but not be limited to:

- 1) A consideration of whether the act or acts of the person are of a glaringly obvious nature or are repetitiously committed and resulted in a breach of standards of practice;
- 2) A consideration that said act or acts committed constituted a breach of standards of practice to possess and apply knowledge, skill and care in using approved therapeutic ocular pharmaceutical agents for the purpose of aiding the treatment of abnormal conditions that are ordinarily used by an optometrist certified under Section 15.1 of the Act.
- 3) A consideration that a mere mistake that is not indicative of a lack of knowledge, skill and care does not constitute misuse. Nor is a bad or unexpected result evidence of misuse unless such a result would not ordinarily occur in the absence of misuse.
- 4) A consideration that, in determining the applicable standard of use, the Board ~~Committee~~ shall consider the opinion and the testimony of experts.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.310 Application for Therapeutic Certification

A licensed optometrist seeking certification to use therapeutic ocular pharmaceutical agents for examination purposes shall file an application with the Department, on forms provided by the Department:

a) Either:

- 1) Certification signed by the Dean of the applicant's optometry program that the applicant has successfully completed 30 hours of therapeutic ocular training in systemic disease. ~~The training shall have been integrated in the optometric training and shall have been taught by medical faculty who are credentialed in the appropriate medical specialties that would be equivalent to the requirements set forth in Section 1320.320(b)(2). Only optometrists who graduated from an optometry program approved by the Department in accordance with Section 1320.20 after January 1, 1994 are eligible to apply under this subsection;~~
- 2) Certification of training and proof of completion of an approved therapeutic ocular pharmaceutical course as set forth in Section 1320.320 of this Part. Such course shall have been taken after January 1, 1994.

- b) Proof of diagnostic ocular pharmaceutical certification in accordance with Subpart B.
- c) The required fee set forth in Section 1320.400(a)(2) of this Part.

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.320 Approved Therapeutic Ocular Training

The Department shall, upon the recommendation of the Board ~~Committee~~, approve a program of therapeutic ocular training that meets the following minimum requirements:

a) The program has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled.

- 1) The faculty must have demonstrated competence in the area of pharmacological training as evidenced by appropriate degrees from accredited colleges or institutions;
- 2) The medical component of the course shall be taught by physicians licensed to practice medicine in all of its branches with appropriate specialty credentials. They shall be members of the faculty for the 4 year professional optometry program and have appropriate input into the development, presentation and testing of the course.

b) The program shall have a curriculum of a minimum of 120 total contact hours. At least 90 hours shall be lecture and at least 30 hours shall be practical laboratory which shall include foreign body removal and clinical patient care. The lecture portion of the course is subject to the following criteria:

- 1) At least 60 hours taught by faculty members (referenced in (a)(1) above) of the college or university sponsoring the course in the following subject areas:

- A) Anatomy and Physiology Considerations in Ocular Disease - 5 hours minimum
- B) Pharmacology of Therapeutic Agents - 10 hours minimum
- C) Specific Ocular Disease Considerations - 15 hours minimum
 - i) Bacterial
 - ii) Viral and Chlamydial
 - iii) Allergic
 - iv) Fungal
 - v) Clinical Diagnosis and Treatment of Anterior Uveitis
 - vi) Clinical Diagnosis and Management of Posterior Uveitis
 - vii) Lacrimal Disorders
- D) Other Ocular Diseases/Disorders - 15 hours minimum
 - i) Pre-Post Operative Cataract Care
 - ii) Integration of nervous system assessment and neuro-Ophthalmic Disorders
 - iii) Practical Management of Ocular Emergencies
 - iv) Diabetic Complications - Diabetic Retinopathy
 - v) Sudden Vision Loss
- E) Glaucoma Diagnosis, Treatment and Management - 10 hours minimum

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- i) Pathophysiology of Glaucoma
 ii) Open Angle Glaucoma
 iii) Angle Closure Glaucoma
 iv) Pharmacology of Glaucoma
 F) Clinical Laboratory Tests and Services - 3 hours minimum
 2) At least 30 hours of Clinical Medical Perspectives/Primary Care Medicine for the Ophthalmic Practitioner that shall be taught by medical faculty members (as referenced in subsection (a)(2) above). The 30 hours shall be in the following subject areas:
- A) Cardiovascular Disease
 - B) Respiratory Disorders (e.g., pulmonary)
 - C) Immunology
 - D) Infectious Disease
 - E) Dermatology
 - F) Cataract Surgery - 2 hours maximum
 - G) General Medical Emergency
 - H) Endocrinology
 - I) Collagen Vascular Disease
- c) The program shall require passage of a comprehensive examination(s) designed to test the student's knowledge, competence and ability to apply the program's subject matter.
- 1) The comprehensive examination(s) shall be administered and proctored by the teaching institution's faculty at the site where the course is given or at the institution.
 - 2) Verification of student identification shall be required.
 - 3) The comprehensive examination(s) shall not be take home, open book or collaborative examination(s).
 - 4) The content of all examinations shall be made available to the Department for review upon request.
- d) The program shall not be provided, sponsored, co-sponsored or in any way be supported or financially underwritten by a sponsor or others who receive patient referrals from those in attendance. Approved colleges or institutions are exempt from this provision.
- e) Program Evaluation
- 1) An applicant from a pharmacological training program that has not been evaluated will be requested by the Department to provide documentation concerning the criteria in this Section.
 - 2) Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever comes first, the Board Committee will evaluate the program based on all documentation received from the program and any additional information the Department has requested.
- f) The Board Committee may withdraw the approval of any program of pharmacological training for any of the following grounds:
- 1) Fraud or dishonesty in applying for approval;
 - 2) Failure to continue to meet the criteria for an approved program as stated in this Section.
- g) A program whose approval is being reconsidered shall be given written

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notice prior to any recommendation by the Board Committee, and the officials in charge may either submit written comments or request a hearing before the Board Committee in accordance with 68 Ill. Adm. Code 1010.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.340 Restoration of Therapeutic Certification

- a) A therapeutic certification that has lapsed or been on inactive status for less than 3 years shall be restored upon application to the Department, payment of the required fees specified in Section 1320.400(c)(1) of this Part, a current Illinois optometric license, diagnostic topical ocular pharmaceutical certification and proof of completion of continuing education pursuant to Section 1320.90 of this Part.
- b) A therapeutic certification that has lapsed or been on inactive status for more than 3 years shall be restored upon proof of a current Illinois optometric license, proof of a diagnostic topical ocular pharmaceutical certification and submission of an application to the Department, which shall include the following:
 - 1) Sworn evidence of active practice in another jurisdiction that allows the use of equivalent therapeutic ocular pharmaceutical agents. Such evidence shall include a statement from the appropriate licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice and that indicates if any disciplinary action has been taken or is pending; or
 - 2) Other evidence that the applicant has maintained competence in the use of therapeutic ocular pharmaceuticals. Such evidence shall be evaluated on an individual basis by the Board Committee and may include:
 - A) Teaching therapeutic ocular pharmacology in an educational program approved in accordance with Section 1320.220 of this Part; or
 - B) Research in therapeutic ocular pharmacology; or
 - 3) Proof of successful completion within the year preceding application of an approved training program as specified in Section 1320.320 of this Part;
 - 4) The required fee set forth in Section 1320.400(c)(1) of this Part.
- c) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Department because of lack of information, discrepancies or conflicts in information given or a need for clarification, the licensee seeking restoration of the certification will be requested to:
 - 1) Provide such information as may be necessary; and/or

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- 2) Appear for an interview(s) before the Board Committee to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information in order to evaluate the individual's current competency to use therapeutic ocular pharmaceutical agents.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1320.350 Endorsement of Therapeutic Certification

a) An applicant who was originally licensed to practice optometry in another jurisdiction after January 1, 1996 shall be required to apply for and maintain therapeutic ocular pharmaceutical certification.

b) An applicant who is licensed or certified under the laws of another jurisdiction to use equivalent therapeutic ocular pharmaceutical agents shall file an application with the Department, on forms provided by the Department, together with:

- 1) An application for licensure as an optometrist and an application for certification of diagnostic topical ocular pharmaceuticals in the State of Illinois;
- 2) A certification from the licensing authority of the jurisdiction of original licensure, and any other jurisdiction in which the applicant is licensed, stating:
 - A) The time during which the applicant was licensed in that state;
 - B) Whether the records of the licensing entity contain any record of disciplinary actions taken or pending against the applicant;
 - C) A description of the examination and grade received;

- 3) A certification of education and a transcript of the therapeutic ocular pharmaceutical agent training received and any continuing education completed in therapeutics. The therapeutic training shall be equivalent to the training set forth in Section 1320.320 and shall have been completed after January 1, 1994;
- 4) A copy of the acts and rules in effect at the time of original certification or licensure; and
- 5) The required fee set forth in Section 1320.400.

c) The applicant may be required to appear before the Board Committee:

- 1) To clarify or explain information contained on the submitted documentation; or
- 2) To determine the substantial equivalence of the applicant's qualifications to the licensing requirements in this State pursuant to Section 15.1 of the Act.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Professional Counselor and Clinical Professional Counselor Licensing Act

2) Code Citation: 68 Ill. Adm. Code 1375

Section Numbers:	Proposed Action:
1375.10	Repealed
1375.20	Repealed
1375.30	Amendment
1375.60	Amendment
1375.100	Repealed
1375.110	Repealed
1375.120	Amendment
1375.150	Amendment
1375.160	Amendment
1375.220	Amendment

- 4) Statutory Authority: Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]

- 5) A Complete Description of the Subjects and Issues Involved: Obsolete provisions concerning temporary licenses for counselors and clinical counselors are repealed, and clarifications to the experience requirements are included in Section 1375.40 for counselors and Section 1375.130 for clinical counselors. Section 1375.220 is amended to include social work continuing education sponsors as approved CE sponsors under this Part. Various technical changes have also been made.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? Yes

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax # 217/782-7645

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All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those employing licensed professional counselors and licensed clinical professional counselors.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: Skills as a professional counselor or clinical professional counselor are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1375

PROFESSIONAL COUNSELOR AND CLINICAL PROFESSIONAL COUNSELOR
LICENSING ACT

SUBPART A: LICENSED PROFESSIONAL COUNSELOR

Section
1375.10
1375.20
1375.30
1375.40
1375.50
1375.60
1375.70
1375.80

Temporary License as a Professional Counselor (Repealed)
How to Obtain a Permanent License as a Professional Counselor After Receiving a Temporary License (Repealed)
Application for Examination/Permanent Licensure as a Professional Counselor
Professional Experience as a Professional Counselor after December 31, 1998
Approved Professional Counseling Programs
Examination - Professional Counselor
Endorsement - Professional Counselor
Restoration - Professional Counselor

SUBPART B: LICENSED CLINICAL PROFESSIONAL COUNSELOR

Section
1375.100
1375.110
1375.120
1375.130
1375.135
1375.140
1375.150
1375.160
1375.170

Temporary License as a Clinical Professional Counselor (Repealed)
How to Obtain a Permanent License as a Clinical Professional Counselor After Receiving a Temporary License (Repealed)
Application for Examination/Permanent Licensure as a Clinical Professional Counselor
Professional Experience for Licensure as a Clinical Professional Counselor Beginning January 1, 1999
Clinical Professional Counselor Licenses for Clinical Psychologists and Clinical Social Workers
Approved Clinical Professional Counseling Programs
Examination - Clinical Professional Counselor
Endorsement - Clinical Professional Counselor
Restoration - Clinical Professional Counselor

SUBPART C: GENERAL

Section
1375.200
1375.210
1375.220
1375.225

Renewals
Inactive Status
Continuing Education
Unprofessional Conduct

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1375.230 Granting Variances

APPENDIX A Course Descriptions

AUTHORITY: Implementing the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 18 Ill. Reg. 18018, effective December 12, 1994; amended at 22 Ill. Reg. 8460, effective May 4, 1998; amended at 24 Ill. Reg. _____, effective _____.

SUBPART A: LICENSED PROFESSIONAL COUNSELOR

Section 1375.10 Temporary License as a Professional Counselor (Repealed)

a) Any person seeking a temporary license without examination under Section 55 of the Professional Counselor and Clinical Professional Counselor Licensing Act (the Act) shall file an application with the Department of Professional Regulation (the Department) on forms provided by the Department; the application shall include the following:

1) Education/Experience

A) Certification of a minimum of a master's degree in counseling/rehabilitation counseling or psychology from a college/university or school recognized by the educational governing authority in the jurisdiction in which it is located or certification of education and an official transcript from a similar master's program approved by the Department in accordance with Section 1375.50 of this Part;

B) Certification of a baccalaureate degree from a college/university or school recognized by the educational governing authority in the jurisdiction in which it is located and documentation of the equivalent of 3 years of full-time satisfactory supervised experience as a professional counselor subsequent to the degree;

1) An applicant shall document a total of 5040 clock hours of experience; no more than 1680 clock hours may be counted toward one year of experience; Part time experience shall be counted toward the experience requirement;

1) The supervisor shall document the experience as satisfactory or better;

1) Supervised work experience for purposes of this Section shall entail services to individual couples, groups, families and organizations in any one or more of the fields of professional counseling

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iv) defined in Section 10 of the Act; Qualified supervisors are those individuals who at the time of supervision were master's level or doctoral level counselors such as, but not limited to, licensed or registered marriage and family therapists, registered art therapists, pastoral counselors, school counselors, social workers, school psychologists, certified rehabilitation counselors, certified social workers or licensed clinical social workers, licensed clinical psychologists or licensed/registered psychologists, psychiatrists defined in Section 1.121 of the Mental Health and Developmental Disabilities Code or licensed clinical professional counselors;

v) An applicant may substitute one time only semester hours or equivalent quarter hours of graduate courses related to counseling for one year of satisfactory supervised training;

2) A complete work history since receipt of the first qualifying degree required for licensure (baccalaureate, master's or doctoral degree);

3) The required fee specified in Section 60(a) of the Act;

4) Certification of licensure on forms provided by the Department from the state or territory of the United States in which an applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:

A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance in that jurisdiction;

B) A description of the examination in that jurisdiction; and

C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

b) All temporary licenses will expire on September 5, 1998. Any holder of a temporary license who has not passed the examination and obtained a permanent professional counselor license by September 5, 1998 shall be required to submit a new application to the Department pursuant to Section 1375.30 and meet the requirements in effect at the time of reapplication;

c) The Department, upon recommendation of the Professional Counselor Examining and Disciplinary Board (the Board), has determined that the educational and experience requirements of the following certifications meet the standards for an applicant to sit for the examination:

1) Illinois Alcohol and Other Drug Abuse Professional Certification Association, Inc. at the master's level (Certified Master AODA Counselor)

2) Clinical member of the American Association of Marriage and

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Family Therapy (AAMFT)

- 3) Type--9--certificate--issued--by--the--Illinois--State--Board--of
Education--as--a--School--Psychologist--School--Counselor--and--School
Social--Worker
- 4) American--Association--of--Pastoral--Counselors--Fellow--or--Diplomate
An--applicant--who--holds--certification--in--any--of--the--above--groups--needs
to--submit--a--copy--of--a--certification--in--lieu--of--the--documents--required
in--subsections--(a)(1)(A) and (B)--above
- d) When--the--accuracy--of--any--submitted--documentation--or--the--relevance--or
sufficiency--of--the--course--work--or--experience--is--questioned--by--the
Department--or--the--Board--because--of--lack--of--information, discrepancies
or--conflicts--in--information--given--or--a--need--for--clarification--the
applicant--seeking--license--shall--be--requested--to:
- 1) Provide--such--information--as--may--be--necessary, and/or
- 2) Appear--for--an--interview--before--the--Board--to--explain--such
discrepancies--or--conflicts--in--information:

(Source: Repealed at 24 Ill. Reg. _____, effective
_____)

Section 1375.20 How to Obtain a Permanent License as a Professional Counselor
After Receiving a Temporary License (Repealed)

- a) Any person holding a temporary license as a professional counselor
shall pass an examination specified in Section 1375.60 to qualify for
a permanent license. The examination shall be passed by midnight
September 5, 1998, when all temporary licenses expire, regardless of
when they were issued.
- b) Any person who obtained a temporary license as a professional
counselor with a baccalaureate and 3 years of experience under Section
1375.10(a)(1)(B) must document the equivalent of an additional 2 years
of full-time supervised work obtained after receipt of the temporary
license to become eligible to take the examination for a permanent
license:
- 1) One year of experience shall be a maximum of 1680 clock hours,
two years equals 3360 clock hours. No more than 1680 clock hours
may be counted toward one year of experience. Part-time
experience shall be counted toward the experience requirement.
- 2) Supervised work experience for purposes of this Section shall
entail services to individuals, couples, groups, families, and
organizations in any one or more of the fields of professional
counseling defined in Section 10 of the Act.
- 3) Qualified supervisors are those individuals who, at the time of
supervision, were master's level or doctoral level counselors
(such as, but not limited to, licensed or registered marriage and
family therapists, registered art therapists, pastoral
counselors, school counselors, school social workers, school

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- psychologists, certified rehabilitation counselors, certified
social workers or licensed clinical social workers, licensed
clinical psychologists or licensed/registered psychologists,
psychiatrists defined in Section 1-131 of the Mental Health and
Developmental Disabilities Code or licensed clinical professional
counselors.
- 4) The experience shall have been evaluated by the supervisor as
satisfactory or better:
- 5) An applicant may substitute one-time only, 15 semester hours or
equivalent quarter hours of graduate courses related to
counseling for one year of satisfactory supervised training.
- c) To sit for the examination, all applicants shall submit an application
form provided by the Department, along with the examination fee, to
the designated testing service:
- d) If an applicant passed an examination pursuant to Section 1375.60(b)
prior to September 1998, the applicant shall have the examination
scores submitted to the Department directly from the testing service.
- e) When the accuracy of any submitted documentation or the relevance or
sufficiency of the course work or experience is questioned by the
Department or the Board because of lack of information, discrepancies
or conflicts in information given or a need for clarification, the
applicant seeking license shall be requested to:
- 1) Provide such information as may be necessary, and/or
- 2) Appear for an interview before the Board to explain such
relevance or sufficiency, clarify information or clear up any
discrepancies or conflicts in information.
- f) Upon notification to the Department by the testing service that the
applicant has passed the examination and the submission by the
applicant of the required fee set forth in Section 60 of the Act, the
permanent professional counselor license may be issued.

(Source: Repealed at 24 Ill. Reg. _____, effective
_____)

Section 1375.30 Application for Examination/Permanent License as a
Professional Counselor

- a) Each applicant seeking original licensure under Section 35 of the Act
shall file an application with the Department, on forms provided by
the Department, at least 90 days prior to an examination date. The
application shall include:
- 1) For individuals who graduated or who were enrolled in a program
prior to January 1, 1999 (individuals who have until January 1,
2003 to complete the educational requirements set forth in
Section 1375.50(a); otherwise, the applicant will be required to
meet the educational requirements set forth in Section
1375.50(b)):
- A) Certification of education from a master's or doctoral

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degree program in counseling, psychology or rehabilitation counseling from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located, or certification of graduation and a transcript from a similar master's or doctoral degree program approved by the Department in accordance with Section 1375.50(a) of this Part; or

- B) Certification of a baccalaureate degree from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located and 5 years of full time satisfactory supervised experience as a professional counselor subsequent to the degree in accordance with Section 1375.40 of this Part. However, experience earned prior to January 1, 1999 the experience shall meet the following requirements:

- i) An applicant shall document a total of 8400 clock hours of experience. No more than 1680 clock hours may be counted toward one year of experience. Part time experience shall be counted toward the experience requirement.
- ii) The supervisor shall document the experience as satisfactory or better.
- iii) Supervised work experience, for purposes of this Section, shall entail services to individuals, couples, groups, families and organizations in any one or more of the fields of professional counseling defined in Section 10 of the Act.
- iv) Qualified supervisors are those individuals who, at the time of supervision, were master's level or doctoral level counselors (such as, but not limited to, licensed or registered marriage and family therapists, registered art therapists, pastoral counselors, school counselors, school social workers, school psychologists, certified rehabilitation counselors), certified social workers or licensed clinical social workers, licensed clinical psychologists or licensed/registered psychologists, psychiatrists defined in Section 1-121 of the Mental Health and Developmental Disabilities Code or licensed clinical professional counselors.
- v) An applicant may substitute, one time only, 15 semester hours or equivalent quarter hours of graduate courses related to counseling for one year of satisfactory supervised training.
- vi) An applicant may begin gaining the required experience upon completion of the degree requirements. Verification of the date of completion of the degree, when different from the date of graduation, shall be

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certified to the Department by the applicant's educational institution.

- 2) Beginning January 1, 1999:
 - A) Certification of education and an official transcript from a master's or doctoral degree program in counseling, psychology, rehabilitation counseling or similar degree program approved in accordance with Section 1375.50(a) of this Part; or
 - B) Certification of education and an official transcript from a baccalaureate program in human services or similar degree program approved by the Department in accordance with Section 1375.50 of this Part and documentation of completion of 5 years of supervised professional experience subsequent to the degree in accordance with Section 1375.40 of this Part.
- 3) A complete work history since receipt of a qualifying degree for licensure (baccalaureate, master's or doctorate degree).
- 4) The required fee set forth in Section 60 of the Act.
- 5) Certification of licensure, on forms provided by the Department, from the state or territory of the United States in which an applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:
 - A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance in that jurisdiction;
 - B) A description of the examination in that jurisdiction; and
 - C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- b) Individuals applying for licensure as a professional counselor may submit one of the following certifications (based on examination), in lieu of the documents required in subsection (a)(1) and (2):
 - 1) ~~Certified-Clinical-Mental-Health-Counselor-(CEMHE)~~
 - 12) Commission on Rehabilitation Counselor Certification (CRC)
 - 23) Nationally Certified Career Counselors (NCCC) ~~(NCC)~~
 - 4) ~~Nationally-Certified-School-Counselors-(NCS)~~
 - 5) ~~Nationally-Certified-Counselor-(NCC)~~
 - 6) ~~Nationally-Certified-Gerontological-Counselor-(NCGC)~~

An applicant submitting one of the certifications listed above will not be required to take and pass an additional examination administered by the Department. The Department, upon recommendation of the Board, has determined that the education, experience and examination requirements are equivalent to the requirements for licensure as a professional counselor.
- c) The Department, upon recommendation of the Board, has determined that the educational ~~and~~ experience requirements of the following certifications meet the standards for an applicant to sit for the examination:

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- 1) Illinois Alcohol and Other Drug Abuse Professional Certification Association, Inc. at the master's level (Certified Master AODA Counselor) (IODAPCA) level
- 2) Clinical Member of the American Association of Marriage and Family Therapy (AAMFT)
- 3) Type 73 certificate issued by the Illinois State Board of Education as a School Psychologist, School Counselor or School Social Worker
- 4) Fellow or Diplomate of the American Association of Pastoral Counselors (AAPC)

An applicant who holds certification in any of the above groups needs to submit a copy of a certification in lieu of the documents required in subsections (a)(1) and (2) above. After December 31, 1998 all certifications accepted by the Department shall be current. After December 31, 2003, the Department will no longer accept the above certifications in lieu of the education requirements set forth in this Part.

- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
 - 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

- e) If an applicant has taken and passed the examination in accordance with Section 1375.50, the applicant shall file an application in accordance with subsection (a) above and shall have the examination scores submitted to the Department directly from the testing entity or from the state of original licensure.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1375.60 Examination - Professional Counselor

- a) The examination administered by the Department for licensure as a professional counselor shall be the National Counselor Examination (NCE) of the National Board for Certified Counselors (NBCC).
- b) The passing score on the examination shall be the passing score established by the testing entity.
- c) The Department also shall accept passage of the Certified Rehabilitation Counselor Examination of the Commission on Rehabilitation Counselor Certification (CRCC) and the National Certified Clinical Mental Health Counselor Examination (NCCMHCE) and Assessment Services Incorporation (ASIS)-licensed Professional Counselor Examination. The passing scores on the examinations shall

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- d) The Department shall accept the National Counseling Examination (NCE) taken and passed, according to Department standards, in Illinois or in another jurisdiction.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART B: LICENSED CLINICAL PROFESSIONAL COUNSELOR

Section 1375.100 Temporary License as a Clinical Professional Counselor (Repealed)

- a) Any person seeking a temporary clinical professional counselor license without examination under Section 55 of the Professional Counselor and Clinical Professional Counselor Licensing Act shall file an application with the Department on forms provided by the Department. The application shall include the following:
 - i) Certification of a minimum of a master's degree in the field of counseling, rehabilitation counseling or psychology from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located; or certification of education and an official transcript of a similar master's or doctorate program approved by the Department in accordance with Section 1375.149 of this Part;
 - 2) Documentation of the equivalent of one unit of acceptable experience subsequent to the degree.

- A) One unit of acceptable experience is either:
 - i) One year of full-time clinical professional counseling experience under the direction of a qualified supervisor; A qualified supervisor is any person who is a master's level or doctoral level counselor (such as, but not limited to, registered art therapist, licensed or registered marriage and family therapist, school counselor, school social worker, school psychologist, certified rehabilitation counselor at the master's level, pastoral counselor, a licensed clinical professional counselor, certified social worker, or licensed clinical social worker) licensed/registered clinical psychologist, or psychiatrist as defined in Section 1-21 of the Mental Health and Developmental Disabilities Code;
 - ii) Two years of clinical professional counseling experience independent of the direction of a qualified supervisor;
 - iii) A qualified supervisor may be provided at the applicant's place of work, or may be hired by the applicant to provide supervision.

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- B) One year of full-time experience shall be a maximum of 1680 clock hours obtained in not less than 48 weeks. No more than 1680 clock hours may be counted toward one year of experience. Part-time experience shall be counted toward the experience requirement.
- C) The unit requirements for this Section may be satisfied by supervised experience, independent experience, or a combination of supervised and independent experience. Experience shall be documented as follows:
- 1) Certification of experience signed by the applicant's supervisor or
 - 2) Three affidavits from the applicant's peers or colleagues who are familiar with the applicant's work.
- 3) A complete work history since completion of a master's degree program.
- 4) The required fee specified in Section 60(a) of the Act, and
- 5) Certification of licensure on forms provided by the Department from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:
- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance in that jurisdiction;
 - B) A description of the examination in that jurisdiction; and
 - C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- b) All temporary licenses will expire on September 5, 1998. Any holder of a temporary clinical professional counselor license who has not passed the examination and obtained a permanent clinical professional counselor license by September 5, 1998, shall be required to submit a new application to the Department pursuant to Section 1375.120 and meet the requirements in effect at the time of reapplication.
- c) The Department, upon recommendation of the Board, has determined that individuals who hold a Certified Master Addictive Counselor (CMAC) certification from the Illinois Alcohol and Other Drug Abuse Professional Certification Association (IOBAPCA) meet the education and experience requirements to be eligible to sit for the examination. An applicant shall submit a CMAC certification from IOBAPCA in lieu of the documents required in subsections (a)(1) and (2). Applicants will be required to pass the examination set forth in Section 1375.150:
- d) The Department, upon recommendation of the Board, has determined that the individuals who hold a certification from the following groups meet the education requirements to be eligible to sit for the examination:
 - 1) Clinical Member of the American Association for Marriage and Family Therapy (AAMFT)

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- 2) Fellow or Diplomate of the American Association of Pastoral Counselors (AAPC)
 - 3) Type 73 certificate issued by the Illinois State Board of Education as a School Social Worker, School Counselor or School Psychologist
 - 4) National Certified Counselor (NCC)
- Applicants shall submit a certification from one of the above entities. Applicants will need to submit certification of education and proof of experience and pass the examination set forth in Section 1375.150.
- e) The Department, upon recommendation of the Board, has determined that individuals who hold certification as a Certified Rehabilitation Counselor (CRC) meet the examination requirements set forth in Section 1375.150. Individuals who received a certificate from CRC after 1992 meet the education requirements. Individuals who received a certificate from CRC before 1992 will be required to submit a transcript pursuant to Section 1375.150 in order to evaluate educational requirements. All applicants holding a CRC certificate shall submit proof of experience.
 - f) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
 - 1) Provide such information as may be necessary, and/or
 - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 1375.110 How to Obtain a Permanent License as a Clinical Professional Counselor After Receiving a Temporary License (Repealed)

- Any person holding a temporary license as a clinical professional counselor shall pass an examination specified by the Department to qualify for a permanent license. The examination shall be passed by September 5, 1998, when all temporary licenses expire regardless of when they were issued.
- a) Any person who obtained a temporary clinical professional counselor license will be required to submit proof of an additional one unit of acceptable clinical professional counseling experience obtained after receipt of the temporary license:
 - 1) For the purposes of this Section only, one unit of acceptable experience shall be either:
 - A) The equivalent of one year of full-time work experience under the direction of a qualified supervisor, or
 - B) The equivalent of 2 years of work experience independent of

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the direction of a qualified supervisor;

2) The specified experience may be obtained as follows:

A) One year of experience shall be a maximum of 1680 clock hours obtained in not less than 48 weeks. No more than 1680 clock hours may be counted toward one year of experience. Part-time experience shall be counted toward the experience requirement.

B) For purposes of this subsection, qualified supervisors are those individuals who at the time of supervision were master's level or doctoral level counselors (such as, but not limited to, licensed or registered marriage and family therapists, registered art therapists, pastoral counselors, school counselors, school social workers, school psychologists, certified rehabilitation counselors, certified social workers, licensed clinical social workers, licensed clinical psychologists, licensed registered psychologists, psychiatrists defined in Section 1-21 of the Mental Health and Developmental Disabilities Code, or licensed clinical professional counselors).

C) The experience shall have been evaluated by the supervisor as satisfactory.

B) The unit requirements for this subsection may be satisfied by supervised experience, independent experience, or a combination of supervised and independent experience.

3) Experience shall be documented as follows:

A) Certification of experience signed by the applicant's supervisor, or

B) Three affidavits from the applicant's colleagues, consultants, and supervisors who are familiar with the applicant's work.

b) To sit for the examination, the applicant shall submit an application form provided by the Department, along with the examination fee to the designated testing service.

c) Upon notification to the Department by the testing service that the applicant has passed the examination, the permanent clinical professional counselor license shall be issued.

d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:

1) Provide such information as may be necessary, and/or

2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

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Section 1375.120 Application for Examination/Permanent Licensure as a Clinical Professional Counselor

a) Each applicant seeking original licensure under Section 35 of the Act shall file an application with the Department, on forms provided by the Department, at least 90 days prior to an examination date. The application shall include:

1) For individuals who graduated or who were enrolled in a program prior to January 1, 1999 (individuals who have until January 1, 2003 to complete the educational requirements set forth in Section 1375.140(a); otherwise, the applicant will be required to meet the educational requirements set forth in Section 1375.140(b)):

A) Either:

i) Certification of education from a master's degree program in counseling, rehabilitation counseling or psychology from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located, or certification of education and an official transcript from a similar master's degree program as defined in Section 1375.140(a) of this Part, and individuals who have completed experience prior to January 1, 1999 may complete of complete the equivalent of 2 units of acceptable experience (2 years full-time satisfactory supervised employment working as a clinical professional counselor under the direction of a qualified supervisor as defined in subsection (a)(1)(B) below or 4 years working as a clinical professional counselor independent of the direction of a qualified supervisor subsequent to the degree as defined in Section 1375.100(a)(2) of this Part or a combination of supervised experience and independent experience). All experience obtained beginning January 1, 1999 shall meet the experience requirements set forth in Section 1375.130; or

ii) Certification of education or and an official transcript from a doctoral degree program in counseling, rehabilitation counseling, or psychology from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located or similar degree program as defined in Section 1375.140(a) of this Part. Individuals who have completed experience prior to January 1, 1999 may and completion of complete the equivalent of 2 units of acceptable experience (2 years of full-time satisfactory supervised experience working as a clinical professional counselor under the

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direction of a qualified supervisor or 4 years working as a clinical professional counselor independent of the direction of a qualified supervisor, as defined in subsection (a)(1)(B) below ~~Section-1375-100(a)(2)~~ or a combination of supervised experience and independent experience). All experience obtained beginning January 1, 1999 shall meet the experience requirements set forth in Section 1375.130.

B) Experience shall be documented as follows:

- i) Certification of experience signed by the applicant's supervisor. A qualified supervisor for purposes of subsection (a)(1) above is defined as any person who is a master's level or doctoral level counselor (such as, but not limited to, registered art therapist, licensed or registered marriage and family therapist, school counselor, school social worker, school psychologist, certified rehabilitation counselor at the master's level, pastoral counselor), a licensed clinical professional counselor, certified social worker or licensed clinical social worker, licensed/registered clinical psychologist, or psychiatrist as defined in Section 1-121 of the Mental Health and Developmental Disabilities Code; or
- ii) Three affidavits from the applicant's colleagues, consultants and supervisors who are familiar with the applicant's work.

One year of experience shall be a maximum of 1680 clock hours obtained in not less than 48 weeks. No more than 1680 clock hours may be counted toward one year of experience. Part time experience shall be counted toward the experience requirement.

2) For individuals who graduated on or after January 1, 1999:

- A) Certification of education or and an official transcript from a master's degree program in counseling, rehabilitation counseling, or psychology from a regionally accredited college, school or university or similar degree program as defined in Section 1375.140(b) of this Part and completion of the equivalent of 2 years full-time satisfactory supervised employment or experience working as a clinical professional counselor under the direction of a qualified supervisor, subsequent to the degree, as defined in Section 1375.130 of this Part; or
- B) Certification of education or and an official transcript from a doctoral degree program in counseling, rehabilitation counseling, or psychology from a regionally accredited college, school or university or similar degree program as defined in Section 1375.140(b) of this Part and completion of the equivalent of 2 years of full-time satisfactory

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supervised experience working as a clinical professional counselor under the direction of a qualified supervisor, as defined in Section 10 of the Act, at least one year of which is subsequent to the degree.

- 3) A complete work history since receipt of the first qualifying degree (master's or doctoral degree).
- 4) The fee required in Section 60(a) of the Act.
- 5) Certification of licensure, on forms provided by the Department, from the state or territory of the United States in which an applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:
 - A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance in that jurisdiction;
 - B) A description of the examination in that jurisdiction; and
 - C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

b) The Department, upon recommendation of the Board, has determined that individuals who hold the certification of a Certified Clinical Mental Health Counselor (CCMHC) based on examination meet the education, experience and examination requirements for licensure as a Clinical Professional Counselor.

c) The Department, upon recommendation of the Board, has determined that, prior to January 1, 1999, individuals who hold a Certified Master AODA Counselor (CMADC) certification from the Illinois Alcohol and Other Drug Abuse Professional Certification Association (IODAPCA) meet the education and experience requirements to be eligible to sit for the examination. An applicant shall submit a CMADC certification from IODAPCA in lieu of the documents required in subsections (a)(1) and (2). Applicants will be required to pass the examination set forth in Section 1375.150. After December 31, 1998 individuals shall be required to submit certification of education and experience as set forth in subsection (a)(2) above.

d) The Department, upon recommendation of the Board, has determined that the individuals who hold a certification from the following groups meet the education requirements to be eligible to sit for the examination.

- 1) Clinical Member of the American Association for Marriage and Family Therapy (AAMFT)
- 2) Fellow or Diplomate of the American Association of Pastoral Counselors (AAPC)
- 3) ~~type-73--certificate--issued--by--the--Illinois--State--Board--of Education--as--a--School-Counselor--School-Social-Worker--or--School Psychologist~~

An applicant shall submit a current certification from one of the above entities. The applicant shall submit proof of experience and pass the examination set forth in Section 1375.150.

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- e) The Department, upon recommendation of the Board, has determined that individuals who received their Certified Rehabilitation Counselor or (CRC) certification after January 1992 have been determined to meet the education and examination requirements. Individuals who received a CRC certificate before 1992 will be required to submit a transcript pursuant to Section 1375.150 in order to evaluate educational requirements. All applicants holding a CRC certificate shall submit proof of experience.
- f) An applicant may begin gaining the required experience upon completion of the degree requirements. Verification of the date of completion of the degree, when different from the date of graduation, shall be certified to the Department by the applicant's educational institution.
- g) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.
- h) If an applicant has taken and passed the examinations in accordance with Section 1375.150, the applicant shall file an application in accordance with subsection (a) above and shall have the examination scores submitted to the Department directly from the testing entity or from the state of original licensure.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1375.150 Examination - Clinical Professional Counselor

- a) Prior to January 1, 1999 the examination for licensure as a clinical professional counselor shall be the National Clinical Mental Health Counseling Examination (NCMHCE).
- b) After December 31, 1998 the examination for licensure as a clinical professional counselor shall be the National Counseling Examination (the Examination) of the National Board for Clinical Counselors (NBCC) and the National Clinical Certified Mental Health Counseling Examination.
- c) The passing score on the examination shall be the passing score established by the testing entity.
- d) The Department also shall accept passage of the Certified Rehabilitation Counselor Examination of the Commission on Rehabilitation Counselor Certification (CRCC).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 1375.160 Endorsement - Clinical Professional Counselor

- a) Each applicant seeking licensure as a clinical professional counselor under Section 70 of the Act shall file an application with the Department on forms provided by the Department. The application shall include:
- 1) For individuals who graduated prior to January 1, 1999:
 - A) Certification of education from a master's degree in counseling, rehabilitation counseling or psychology from a college, university or school recognized by the educational governing authority in the jurisdiction in which it is located, or certification of education and an official transcript from a similar master's degree program as defined in Section 1375.140 of this Part and completion of the equivalent of 2 units of acceptable experience (2 years full-time satisfactory supervised employment working as a clinical professional counselor under the direction of a qualified supervisor or 4 years working as a clinical professional counselor independent of the direction of a qualified supervisor, subsequent to the degree, as defined in Section 1375.120(a)(1)(B)(i) 1375-160(a)(2) of this Part) or a combination of the supervised experience and independent experience. Experience earned on or after January 1, 1999 shall meet the requirements set forth in Section 1375.130; or
 - B) Certification of education and an official transcript from a doctoral degree in counseling, rehabilitation counseling, psychology or similar degree program as defined in Section 1375.140 of this Part and completion of the equivalent of 2 units of acceptable experience (2 years of full-time satisfactory supervised experience working as a clinical professional counselor under the direction of a qualified supervisor or 4 years working as a clinical professional counselor independent of the direction of a qualified supervisor, as defined in Section 1375.120(a)(1)(B)(i) 1375-160(a)(2)) or a combination of the supervised experience and independent experience. Experience earned on or after January 1, 1999 shall meet the requirements set forth in Section 1375.130.
 - 2) Applicants who graduated on or after January 1, 1999:
 - A) Certification of education and an official transcript from a master's degree program in counseling, or rehabilitation counseling, psychology from a college, university or school regionally accredited by the educational governing authority in the jurisdiction in which it is located or similar degree program as defined in Section 1375.140 of this Part and

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completion of the equivalent of 2 years full-time satisfactory supervised employment or experience working as a clinical professional counselor under the direction of a qualified supervisor, subsequent to the degree, as defined in Section 1375.130 of this Part; or

- B) Certification of education and an official transcript from a doctoral degree program in counseling, rehabilitation counseling, or psychology from a college, university or school regionally accredited by the educational governing authority in the jurisdiction in which it is located or similar degree program as defined in Section 1375.140 of this Part and completion of the equivalent of 2 years of full-time satisfactory supervised experience working as a clinical professional counselor under the direction of a qualified supervisor, as defined in Section 10 of the Act, at least one year of which is subsequent to the degree.

- 3) A complete work history since receipt of the master's or doctorate degree.
- 4) Successful completion of the examinations in accordance with Section 1375.150 of this Part.

- 5) The required fee set forth in Section 60(1) of the Act.

- 6) Certification of licensure, on forms provided by the Department, from the state or territory of the United States in which an applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance in that jurisdiction;

- B) A description of the examination in that jurisdiction; and

- C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

- b) The Department, upon recommendation of the Professional Counselor Licensing and Disciplinary Board (the Board), shall issue a license if a review of the application indicates that the applicant meets all the requirements of this Part and the Act.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART C: GENERAL

Section 1375.220 Continuing Education

- a) Continuing Education Hours Requirements

- 1) For the March 31, 1999 renewal a licensee will be required to complete 12 hours of continuing education. Beginning with the March 31, 2001 renewal and every renewal thereafter, in order to

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renew a license, a licensee shall be required to complete 30 hours of continuing education.

- 2) A prerenewal period is the 24 months preceding March 31 of each odd-numbered year.

- 3) CE requirements shall be the same for licensed professional counselors and licensed clinical professional counselors.

- 4) One CE hour shall equal one clock hour of attendance. After completion of the initial CE hour, credit may be given in one-half hour increments.

- 5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.

- 6) Professional counselors or clinical professional counselors licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.

- 7) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

b) Approved Continuing Education (CE)

- 1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at or participation in a program or course (program) that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below, except for those activities provided in subsections (b)(2), (3) and (4) below.

- 2) A maximum of 10 CE credits per prerenewal period may be earned for completion of a correspondence course that is offered by an approved sponsor who meets the requirements set forth in subsection (c) below. Each correspondence course shall include an examination.

- 3) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of professional counseling related courses that are a part of the curriculum of a college, university or graduate school. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.

- 4) CE credit may be earned for verified teaching in the field of counseling in an accredited college, university or graduate school and/or as an instructor of continuing education programs given by approved sponsors. Credit will be applied at the rate of 1.5 hours for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations of the same program). A maximum of 10 hours of CE credit may be obtained in this category per prerenewal period.

- 5) CE credit may be earned for authoring papers, publications,

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dissertations or books and for preparing presentations and exhibits in the field of counseling. The preparation of each published paper, book chapter or professional presentation dealing with professional counseling or clinical professional counseling may be claimed as 5 hours of credit. A presentation must be before an audience of professional counselors. Five credit hours may be claimed for only the first time the information is published or presented.

6) A maximum of 8 hours of CE credit may be earned per renewal period for supervision which is received on a regular basis with a set agenda. Supervision credit may be not earned for supervision provided to others. Supervision shall be documented with a letter from the supervisor indicating the start and end dates in which the supervision occurred, the site where supervision was provided, the number of hours of participation and the name and license number of the supervisor. The letter shall be signed by the supervisor.

7) A maximum of 6 hours of CE credit may be earned per renewal period for leadership activities. Such activities include, but are not limited to, officer of a state or national counseling organization; editor of a professional counseling journal; member of a national counselor certification board; member of a national ethics disciplinary review committee; chair of a major counseling conference or convention; active member of a counseling committee producing a substantial written product. The leadership shall be documented in a letter of confirmation from the organization's letterhead and shall include the start and end dates of leadership, the name of the organization and the position held.

c) Approved CE Sponsors and Programs

1) Sponsor, as used in this Section, shall mean:

- A) National Board for Certified Counselors or its affiliates;
- B) American Counseling Association or its affiliates;
- C) Commission on Rehabilitation Counselor or its affiliates;
- D) American Association for Marriage and Family Therapy or its affiliates;
- E) Employee Assistance Professional Association (EAPA) and Employee Assistance Society of North America (EASNA) or its affiliates;
- F) Social Work Continuing Education Sponsors approved by the Department in accordance with the rules for the administration of Clinical Social Work and Social Work Practice Act [225 ILCS 20], 68 Ill. Adm. Code 1470.95.

GF) Any other accredited school, college or university, State agency, or any other person, firm, or association that has been approved and authorized by the Department pursuant to subsection (c)(2) of this Section to coordinate and present continuing education courses and programs.

2) An entity seeking approval as a CE sponsor shall submit an

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application, on forms supplied by the Department, along with a \$500 application fee. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The application shall include:

A) Certification:

- i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) below and all other criteria in this Section;
- ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9) below;
- iii) That, upon request by the Department, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance;
- iv) That each sponsor shall submit to the Department written notice of program offerings, including program offerings of subcontractors, 30 days prior to course dates. Notice shall include the description, location, date and time of the program to be offered;

- B) A copy of a sample program with faculty, course materials and syllabi.

3) All programs shall:

- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of professional counseling or clinical professional counseling;
 - B) Foster the enhancement of general or specialized counseling or clinical counseling practice and values;
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
 - D) Specify the course objectives, course content and teaching methods to be used; and
 - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.
- 5) An approved sponsor may subcontract with individuals and

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organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the licensed sponsor and the sponsor's license number. The present or of the program may also be identified, but should be identified as a presenter. When a licensed sponsor subcontracts with a presenter, the licensed sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.

6) All programs given by approved sponsors shall be open to all licensed professional counselors and licensed clinical professional counselors and not be limited to members of a single organization or group.

7) To maintain approval as a sponsor pursuant to subsection (c)(2) above, each shall submit to the Department by March 30 of each odd-numbered year a renewal application, a \$250 fee and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given by the sponsor and by any subcontractor.

8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

- A) The name, address and license number of the sponsor;
- B) The name and address of the participant;
- C) A brief statement of the subject matter;
- D) The number of hours attended in each program;
- E) The date and place of the program; and
- F) The signature of the sponsor.

9) The sponsor shall maintain attendance records for not less than 5 years.

10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.

11) Upon the failure of a sponsor to comply with any of the requirements of this Section, the Department, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Department receives assurances of compliance with this Section.

12) Notwithstanding any other provision of this Section, the Department or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application,

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full compliance with the CE requirements set forth in subsections (a) and (b) above.

2) The Department may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Department's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

e) Continuing Education Earned in Other Jurisdictions

1) If a licensee has earned or is seeking CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, prior to participation in the program or prior to 90 days after expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$25 processing fee plus a \$50 per CE hour late fee not to exceed \$300. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Department shall restore the license upon payment of the required fee as provided in Section 13(4) and (5) of the Act.

g) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Department a renewal application along with the required fee set forth in Section 13(3) of the Act, a statement setting forth the facts concerning noncompliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Department, upon the written recommendation of the Board, finds, from such affidavit or any other evidence submitted, that extreme hardship has been shown for granting a waiver, the Department shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

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- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
- A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
 - B) An incapacitating illness documented by a statement from a currently licensed physician;
 - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
 - D) Any other similar extenuating circumstances.
- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Department.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Auction License Act
- 2) Code Citation: 68 Ill. Adm. Code 1440
- 3) Section Number:
- | | |
|----------|--------------------------|
| 1440.10 | <u>Emergency Action:</u> |
| 1440.100 | New Section |
| 1440.110 | New Section |
| 1440.120 | New Section |
| 1440.130 | New Section |
| 1440.140 | New Section |
| 1440.150 | New Section |
| 1440.160 | New Section |
| 1440.170 | New Section |
| 1440.180 | New Section |
| 1440.190 | New Section |
| 1440.200 | New Section |
| 1440.210 | New Section |
| 1440.220 | New Section |
| 1440.230 | New Section |
| 1440.240 | New Section |
| 1440.250 | New Section |
| 1440.260 | New Section |
| 1440.270 | New Section |
| 1440.280 | New Section |
- 4) Statutory Authority: Implementing and authorized by the Auction License Act [225 ILCS 407].
- 4) Effective Date of Rules: October 25, 1999
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it expires: N/A
- 7) Date filed with Index Department: October 25, 1999
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for the Emergency: Pursuant to Public Act 91-603 [225 ILCS 407], effective January 1, 2000 the Office of Banks & Real Estate will begin administering a new licensing program for Illinois Auctioneers. Drafting of the rules has just been completed and to ensure that the new Act will have rules for the administration of the Act, emergency rules are necessary until permanent rules can be adopted through regular rulemaking.
- 10) A complete description of the subjects and issues involved: Effective

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January 1, 2000 the Office of Banks & Real Estate will begin licensing auctioneers for the first time, pursuant to the Auction License Act. The emergency rules set forth definitions, license requirements, and other administrative rules needed to implement the new program until permanent rules can be adopted through the regular rulemaking process.

- 11) Are there any proposed amendments pending to this Part? No
- 12) Statement of statewide policy objectives: This rule will not require local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 13) Information and questions regarding this amendment shall be directed to:

Norman Willoughby
Office of Banks & Real Estate
500 E. Monroe, Suite 200
Springfield IL 62701
217/782-2798

The full text of the Emergency Rules begins on the next page:

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY RULES

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATE

PART 1440
AUCTION LICENSE ACT

SUBPART A: DEFINITIONS

Section
1440.10 Definitions
EMERGENCY

SUBPART B: AUCTION LICENSE

Section
1440.100 Necessity of License; Exemptions
EMERGENCY
1440.110 Examination
EMERGENCY
1440.120 Application for Auctioneer, Associate Auctioneer License and Auction
EMERGENCY Firm
1440.130 Application for Licensure, Practice Prior to the Act
EMERGENCY
1440.140 45 Day Permit Sponsor Card
EMERGENCY
1440.150 Restoration of Lapsed or Expired License
EMERGENCY
1440.160 Nonresident Auctioneer, Associate Auctioneer Reciprocity
EMERGENCY
1440.170 Fees
EMERGENCY
1440.180 Earnings from the Investment of Moneys in the Auction Recovery Fund
EMERGENCY
1440.190 Address Change, Notification
EMERGENCY
1440.200 Pocket Card
EMERGENCY
1440.210 Assumed Name
EMERGENCY
1440.220 Supervisory Duties
EMERGENCY
1440.230 Advertising; Buyer Premium; Disclosure
EMERGENCY
1440.240 Unlicensed Assistants
EMERGENCY
1440.250 Felony convictions; Discipline of Other Professional License;
EMERGENCY Notification
1440.260 Advertising; Auction without Reserve; Absolute Auction

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NOTICE OF EMERGENCY RULES

EMERGENCY

1440.270 Escrow or Trust Accounts

EMERGENCY

1440.280 Termination for Failure to Pay Taxes, Child Support or Student Loan.

EMERGENCY

AUTHORITY: Implementing and authorized by the Auction License Act [23 ILCS 407].

SOURCE: Adopted by emergency rulemaking at 23 Ill. Reg. 13414, effective October 25, 1999.

SUBPART A: DEFINITIONS

Section 1440.10 Definitions

EMERGENCY

"Act" means the Auction License Act.

"Advertisement" means any written, oral, or electronic communication that contains a promotion, inducement, or offer to conduct an auction or offer to provide an auction service, including but not limited to brochures, pamphlets, radio television scripts, telephone and direct mail solicitation, electronic media, and other means of promotion.

"Advisory Board" shall mean the Auctioneer Advisory Board.

"Associate Auctioneer" means a person who conducts an auction, but who is under the direct supervision of, and is sponsored by, a licensed auctioneer or auction firm.

"Auction" means the sale or lease of property, real or personal, by means of exchanges between an auctioneer or associate auctioneer and prospective purchasers or lessees, which consists of a series of invitations for offers made by the auctioneer or associate auctioneer and offers by prospective purchasers or lessees for the purpose of obtaining an acceptable offer for the sale or lease of the property, including the sale or lease of property via mail, telecommunications, or the Internet.

"Auction contract" means a written or oral agreement between an auctioneer, associate auctioneer, or an auction firm and a seller, sellers, lessor or lessors.

"Auction Firm" means any corporation, partnership, or limited liability company that acts as an auctioneer and provides an auction service.

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"Auction School" means any educational institution, public or private, which offers a curriculum of auctioneer education and training approved by OBRE.

"Auction Service" means the service of arranging, managing, advertising or conducting auctions.

"Auctioneer" means a person or entity who, for another, for a fee, compensation, commission or any other valuable consideration at auction or with the intention or expectation of receiving valuable consideration by the means of or process of an auction or sale at auction or providing an auction service, offers, negotiates, or attempts to negotiate an auction contract, sale, purchase, or exchange of goods, chattels, merchandise, personal property, real property, or any commodity that may be lawfully kept or offered for sale by or at auction.

"Buyer premium" means any fee or compensation paid by the successful purchaser of property sold or leased at or by auction, to the auctioneer, associate auctioneer, auction firm, seller, lessor or other party to the transaction.

"Cashier" means a person who accepts, records and documents payments and information from bidders or prospective bidders, and performs other clerical services for and under the direct supervision of a licensed auctioneer or auction firm, while conducting an auction or providing an auction service.

"Clerk" means a person who records and documents information and performs other clerical services for and under the direct supervision of an auctioneer or an auction firm, while conducting an auction or providing an auction service.

"Commissioner" means the Commissioner of the Office of Banks and Real Estate.

"Compensation" means the valuable consideration given by one person or entity to another person or entity in exchange for the performance of some activity or service. Compensation shall include the transfer of valuable consideration, including but not limited to:

commissions;

fees;

referral fees;

bonuses;

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prizes;
 merchandise;
 finder fees;
 performance of services;
 coupons or gift certificates;
 discounts;
 rebates;

a chance to win a raffle, drawing, lottery, or similar game of chance not prohibited by any other law or statute;

retainer fee; or

salary.

"Consignment sale" means the sale or lease of property at an auction, whereby a person or entity takes temporary control, title or possession of the property to be sold or leased for the purpose of that person or entity to sell or lease the property, receive and distribute the proceeds of the sale or lease of said property. The person or entity who conducts a consignment sale auction shall not be exempt from licensure under this Act.

"Goods" means chattels, movable goods, merchandise, or personal property or commodities of any form or type that may be lawfully kept or offered for sale.

"Licensee" means any person licensed under this Act.

"Livestock auctioneer" means an auctioneer or associate auctioneer, licensed under this Act, and employed by a business registered as a market agency under the Federal Packers and Stockyards Act (7 USC 181 et seq.) or under the Livestock Auction Market Law, who by public outcry sells livestock at said registered business.

"Managing auctioneer" means any person licensed as an auctioneer who manages and supervises an auction firm and licensees sponsored by an auction firm or auctioneer.

"OBRE" means the Office of Banks and Real Estate.

"Person" shall mean an individual, association, partnership,

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corporation, limited liability company, or the officers, directors, or employees of the same.

"Pre-renewal period" means the 24 months prior to the expiration date of a license issued under this Act.

"Ring assistant" means a person who acknowledges a bid from a member of the audience during the sale or lease of property at an auction and conveys the bid to the auctioneer, but only the auctioneer may accept such bid for the sale or lease of property at auction.

"Rules" means the Administrative Rules promulgated pursuant to the Act.

"Sponsor Card" shall mean the temporary permit issued by the sponsoring auctioneer certifying that the licensee named thereon is employed by or associated with the sponsoring auctioneer and said sponsoring auctioneer shall be responsible for the actions of the sponsored licensee.

"Sponsoring auctioneer" means the auctioneer or auction firm who has issued a sponsor card to a licensed associate auctioneer or auctioneer.

"Terms and conditions" means an announcement made orally or in written form at an auction sale, including but not limited to, the condition of the property being sold or leased, the type of payment expected from the purchaser, when payment is expected from the purchaser, when possession, control and ownership of the property being sold or leased passes to the purchaser, and any other information which is pertinent concerning the auction.

SUBPART B: AUCTION LICENSE

Section 1440.100 Necessity of License; Exemptions
EMERGENCY

Any person, corporation, limited liability company, partnership, or other entity shall not be required to be licensed under this Act under the following circumstances:

- a) A not-for-profit organization conducting an auction solely for charitable purposes;
- b) A person or other entity who is the rightful owner of property, real or personal, sold or leased at auction;
- c) A person or entity, while conducting an auction for the sale or lease of real property, who holds a valid broker or salesperson license under the Real Estate License Act of 2000;
- d) A business registered as a livestock market agency under the federal

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Packers and Stockyards Act (7 USC 181 et seq.) or under the Livestock Auction Market Law, and that registered business employs licensed livestock auctioneers;

e) A vehicle dealer licensed by the Secretary of State of Illinois, and employees of the exempt vehicle dealer who are residents of Illinois, while the employee is acting in the regular scope of his or her employment for the licensed vehicle dealer while conducting a vehicle auction;

f) A person under the age of 18 years of age who while under the direct supervision of a licensed auctioneer sells items under \$250 in value.

Section 1440.110 Examination**EMERGENCY**

a) Every person who makes application for a license as an auctioneer or associate auctioneer shall take and pass a written examination authorized by OBRE, except those exempt from the examination requirement pursuant to Section 10-25 of this Act.

b) Each applicant for an auctioneer or associate auctioneer license shall file an application for examination with OBRE or its designated testing service. The application for examination shall include:

- 1) Certification that the applicant is 18 years of age; and
- 2) Certification of graduation from high school or equivalent (e.g., GED).

Section 1440.120 Application for Auctioneer, Associate Auctioneer License and**Auction Firm****EMERGENCY**

a) Each applicant for an auctioneer or associate auctioneer license shall submit on forms provided to OBRE:

- 1) The applicant's name, address and telephone number;
- 2) The applicant's Social Security Number and date of birth; OBRE shall make available the applicant's Social Security Number only to the Illinois Department of Revenue, to determine a tax delinquency, the Illinois Department of Public Aid, to determine a delinquency in court ordered child support payments, and the Illinois Student Assistance Commission (ISAC) to determine a delinquency for a student loan authorized by ISAC, or by subpoena;
- 3) Certification that the applicant is 18 years of age;
- 4) Certification of graduation from high school or equivalent (e.g., GED);
- 5) The fee as provided by Section 1440.170 of this Part;
- 6) A properly completed sponsor card issued in accordance with Section 10.35 of the Act and Section 1440.140 of this Part;
- 7) Proof of successful completion of the examination authorized by OBRE, unless otherwise exempt from examination as provided by

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Section 10-25 (Practice prior to the Act) of the Act and Section 1440.130 of this Part or Section 10-45 (Nonresident auctioneer reciprocity) of the Act and Section 1440.160 of this Part; and

8) Any other information as required by OBRE, including but not limited to personal history, criminal record, Illinois tax delinquency, Illinois student loan delinquency, court ordered child support delinquency, or other information used by OBRE to determine an applicant's fitness for licensure.

b) A person who desires to conduct auctions, provide an auction service or practice auctioneering in the form of a partnership, corporation or limited liability company shall make application for an auction firm license on forms provided by OBRE to the Office of Banks and Real Estate and shall include the following:

- 1) The applicant's name, address and telephone number;
 - 2) The applicant's Federal Employer Identification Number or tax identification number;
 - 3) OBRE shall make available an applicant's FEIN or tax identification number only to the Illinois Department of Revenue to determine a tax delinquency, or by subpoena;
 - 4) A list of all officers, directors, and owner's with percentage of ownership of said auction firm;
 - 5) Articles of Incorporation or Organization, other evidence of legal formation or authority to conduct business as approved by OBRE;
 - 6) Proof of a properly licensed managing auctioneer;
 - 7) The fee as provided by Section 1440.170 of this Part; and
 - 8) Any other information required by OBRE.
- c) All information provided by an applicant to OBRE is subject to audit by OBRE within 5 years from the date in which the application was received by OBRE.

Section 1440.130 Application for Licensure, Practice Prior to the Act**EMERGENCY**

a) An applicant who desires to apply for an auctioneer or associate auctioneer license under this Act without examination shall submit an application on forms provided by OBRE to the Office of Banks and Real Estate providing the information as required by Sections 10-5 and 10-10 of the Act and Section 1440.110 of this Part, except the requirement for proof of successful completion of the examination authorized by OBRE. In addition, an applicant who makes application for licensure under Section 10-25 of the Act and this Section of this Part shall verify that he or she:

- 1) Is a resident of the State of Illinois;
- 2) Has practiced as an auctioneer for a period of at least 2 years prior to January 1, 2000; and
- 3) Has conducted a minimum of 5 auctions of real or personal property within 2 years prior to January 1, 2000.

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- b) All information on an application for licensure provided by an applicant to OBRE is subject to audit by OBRE within 5 years from the date in which the application was received by OBRE.

Section 1440.140 45 Day Permit Sponsor Card**EMERGENCY**

- a) A properly issued 45 Day Permit Sponsor Card shall serve as a temporary permit allowing the sponsored individual to engage in the practice of auctioneering for a period of 45 days from its issuance only under the direct supervision of the sponsoring auctioneer or auction firm.
- b) A sponsoring auctioneer or auction firm shall only execute a 45 Day Permit Sponsor Card to a sponsored individual upon presentation of:
- 1) A valid auctioneer or associate auctioneer examination score report from OBRE or its designated testing vendor which states that the sponsoring auctioneer or auction firm may issue a 45 Day permit Sponsor Card; or
 - 2) An original terminated license, pursuant to Section 10-35 of the Act, endorsed by the sponsoring auctioneer or auction firm by whom the sponsored individual was previously sponsored or associated.
- c) Upon issuance of a properly completed 45 Day Permit Sponsor Card:
- 1) The sponsoring auctioneer or auction firm shall send to OBRE the original 45 Day Permit Sponsor Card, the original terminated license (if applicable), the original examination score report and initial application (if applicable), and the proper fee within 24 hours;
 - If the sponsored individual is unable to obtain an original terminated license from his or her previous sponsoring auctioneer or auction firm, the sponsored individual shall prepare a sworn written statement as to why the terminated license is not submitted. The sponsoring auctioneer or auction firm shall submit said written statement in lieu of an original terminated license to OBRE.
 - 2) The sponsoring auctioneer or auction firm shall retain a copy of the 45 Day Permit Sponsor Card for its records; and
 - 3) The sponsored individual shall retain a copy of the 45 Day Permit Sponsor Card, and shall use it in lieu of a license until a license is issued by OBRE, but not for a period in excess of 45 days from its issuance.
- d) If a new license has not been issued by OBRE within 45 days of the issuance of a 45 Day Permit Sponsor Card, the sponsored individual shall not practice auctioneering.
- e) OBRE may grant an extension of a 45 Day Permit Sponsor Card, but said extension must be requested in writing by the sponsoring auctioneer or auction firm.
- f) If OBRE denies any application in which a 45 Day Permit Sponsor Card

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was issued, the 45 Day Permit Sponsor Card shall be null and void.

Section 1440.150 Restoration of Lapsed or Expired License
EMERGENCY

- a) A licensee whose license has lapsed or expired shall have 2 years from the date the license expired to restore his or her license without examination. The licensee whose license has expired shall make application on forms provided by OBRE to the Office of Banks and Real Estate which shall include the following:
- 1) The applicant's name, address and telephone number;
 - 2) The applicant's Social Security Number and date of birth;
 - 3) The applicant's license number;
 - 4) A statement from the applicant containing an employment history since the expiration of the applicant's license;
 - 5) The fees as provided by Section 1440.170 of this Part;
 - 6) A properly completed sponsor card issued in accordance with Section 10-35 of the Act and Section 1440.140 of this Part;
 - 7) Proof of successful completion of 12 hours of approved continuing education; and
 - 8) Any other information as required by OBRE, including but not limited to personal history, criminal record, Illinois tax delinquency, Illinois student loan delinquency, court ordered child support delinquency, or other information used by OBRE to determine an applicant's fitness for licensure.
- b) A licensee whose license has lapsed or expired for a period in excess of 2 years shall be required to provide proof of successful completion of 12 hours of approved education within 6 months prior to making application, meet the requirements and make application the same as an initial applicant pursuant to Article 10 of the Act and this Part promulgated for the administration of the Act.

Section 1440.160 Nonresident Auctioneer, Associate Auctioneer Reciprocity
EMERGENCY

- a) A person holding a current license in good standing to conduct auctions, provide an auction service or engaging in auctioneering in a jurisdiction, in which OBRE has a reciprocal agreement, shall make application on forms provided by OBRE to the Office of Banks and Real Estate which shall include the following:
- 1) The applicant's name, address and telephone number;
 - 2) The applicant's Social Security Number and date of birth;
 - 3) Certification that the applicant is 18 years of age;
 - 4) Certification of graduation from high school or equivalent (e.g., GED);
 - 5) The fee as provided by Section 10-50 of the Act;
 - 6) A properly completed sponsor card issued in accordance with Section 10-35 of the Act and Section 1440.160 of this Part;

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- 7) A certification in writing that the nonresident applicant shall abide by all the provisions of the Act and this Part with respect to his or her auction activities within the State of Illinois and submit to the jurisdiction of OBRE as provided in the Act and this Part; and
- 8) Any other information as required by OBRE, including but not limited to personal history, criminal record, Illinois tax delinquency, Illinois student loan delinquency, court ordered child support delinquency, or other information used by OBRE to determine an applicant's fitness for licensure.
- b) A person holding a current nonresident license may become a resident licensee without examination should he or she become domiciled in the State of Illinois by making application on forms provided by OBRE to OBRE.

Section 1440.170 Fees**EMERGENCY**

- a) The license application fee for an auctioneer for:
 - 1) an initial license application shall be \$200;
 - A) in addition to the initial license application fee, each initial applicant shall pay an additional \$100 until January 1, 2002 for deposit into the Auction Recovery Fund; and
 - B) in addition to the initial license application fee, each initial applicant shall pay an additional \$25 until January 1, 2002 for deposit into the Auction Recovery Fund;
 - 2) a renewal application fee shall be calculated at the rate of \$225 per year; in addition to the renewal application fee, each renewal applicant shall pay an additional \$25 until January 1, 2002 for deposit into the Auction Recovery Fund;
 - 3) a renewal application, in which the application with fee, was postmarked after the expiration date of the license and is received by OBRE within 45 days after the expiration date shall be the renewal fee plus a \$50 penalty;
 - 4) a restoration application shall be all lapsed renewal application fees, a \$50 penalty and \$25 for a 45 Day Permit Sponsor Card; a duplicate license shall be \$25.
- b) The license application fee for an associate auctioneer for:
 - 1) an initial license application shall be \$100;
 - A) in addition to the initial license application fee, each initial applicant shall pay an additional \$100 until January 1, 2002 for deposit into the Auction Recovery Fund; and
 - B) in addition to the initial license application fee, each initial applicant shall pay an additional \$25 until January 1, 2002 for deposit into the Auction Recovery Fund;
 - 2) a renewal application shall be calculated at the rate of \$125 per year; in addition to the renewal application fee, each renewal

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- applicant shall pay an additional \$25 until January 1, 2002 for deposit into the Auction Recovery Fund;
- 3) a renewal application, in which the application with fee, was postmarked after the expiration date of the license and is received by OBRE within 45 days after the expiration date shall be the renewal fee plus a \$50 penalty;
- 4) a restoration application shall be all lapsed renewal application fees, a \$50 penalty and \$25 for a 45 Day Permit Sponsor Card; a 45 Day Permit Sponsor Card application shall be \$25; and
- 6) a duplicate license shall be \$25.
- c) The license application fee for an auction firm for:
 - 1) an initial license application shall be \$100;
 - A) in addition to the initial license application fee, each initial applicant shall pay an additional \$100 until January 1, 2002 for deposit into the Auction Recovery Fund; and
 - B) in addition to the initial license application fee, each initial applicant shall pay an additional \$25 until January 1, 2002 for deposit into the Auction Recovery Fund;
 - 2) a renewal application shall be calculated at the rate of \$125 per year; in addition to the renewal application fee, each renewal applicant shall pay an additional \$25 until January 1, 2002 for deposit into the Auction Recovery Fund;
 - 3) a renewal application, in which the application with fee, was postmarked after the expiration date of the license and is received by OBRE within 45 days after the expiration date shall be the renewal fee plus a \$50 penalty;
 - 4) a managing auctioneer change application shall be \$25; and
 - 5) a duplicate license shall be \$25.
- d) The license application fee for an auction school for:
 - 1) an initial license application shall be \$2,000;
 - A) in addition to the initial license application fee, each initial applicant shall pay an additional \$100 until January 1, 2002 for deposit into the Auction Recovery Fund; and
 - B) in addition to the initial license application fee, each initial applicant shall pay an additional \$25 until January 1, 2002 for deposit into the Auction Recovery Fund;
 - 2) a renewal application shall be calculated at the rate of \$1,000 per year; in addition to the renewal application fee, each renewal applicant shall pay an additional \$25 until January 1, 2002 for deposit into the Auction Recovery Fund;
 - 3) a renewal application, in which the application with fee, was postmarked after the expiration date of the license and is received by OBRE within 45 days after the expiration date shall be the renewal fee plus a \$250 penalty; and
 - 4) a duplicate license shall be \$25.
- e) The license application fee for an auction continuing education course, in which application for approval was not made with the initial application or the renewal application of the auction school

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shall be \$50 per course. A duplicate course license shall be \$25.
 f) The fee for copies, license certification and other services shall be the cost for preparing and providing the same, as established by policy of OBRE.

Section 1440.180 Earnings from the Investment of Moneys in the Auction Recovery Fund EMERGENCY

Pursuant to Section 30-20 of the Act, all earnings received from the investment of moneys deposited into the Auction Recovery Fund shall be deposited into the Auction Recovery Fund and shall be used for the same purposes as other moneys deposited into the Auction Recovery Fund.

Section 1440.190 Address Change, Notification EMERGENCY

Any licensee granted a license under the Act shall notify OBRE in writing of any change of business or mailing address within 24 hours after the change. A licensee who fails to notify OBRE in writing of any address change shall be responsible for any failure to comply with any notice sent to said licensee by OBRE to the extent as it may affect his or her license status or penalties assessed by OBRE.

Section 1440.200 Pocket Card EMERGENCY

OBRE shall issue along with each license issued under the Act a pocket card. All licensees shall carry said pocket card at all times and shall display the same upon demand. If the licensee is operating on a properly issued 45 Day Permit Sponsor Card, the licensee shall carry a copy of the 45 Day Permit Sponsor Card in lieu of and until a pocket card is issued by OBRE.

Section 1440.210 Assumed Name EMERGENCY

If a licensee operates under any name other than that appearing on his or her license, he or she shall submit to OBRE a certified copy of his or her registration under the Assumed Business Name Act. [805 ILCS 405] at the time of application or within 30 days after such registration.

Section 1440.220 Supervisory Duties EMERGENCY

a) A sponsoring auctioneer, auction firm and managing auctioneer shall have the duty and be responsible to supervise, manage, and control any licensed auctioneer or associate auctioneer sponsored or managed by said sponsoring auctioneer, auction firm or managing auctioneer while

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conducting an auction, acting as an auctioneer or providing an auction service. In addition, a sponsoring auctioneer, auction firm and managing auctioneer shall have the duty and be responsible to supervise, manage, and control any unlicensed agent or employee while conducting an auction, acting as an auctioneer or providing an auction service. Any violation of this Act by a licensed or unlicensed employee or agent of a sponsoring auctioneer, auction firm or managing auctioneer shall be deemed to be a violation by the sponsoring auctioneer, auction firm or managing auctioneer.

b) Only the managing and/or sponsoring auctioneer shall execute and issue a 45 Day Permit Sponsor Card and terminate a sponsored licensee's license.

Section 1440.230 Advertising; Buyer Premium; Disclosure EMERGENCY

a) A licensee under this Act shall clearly disclose on any advertisement: 1) the licensee's name; If a licensee uses an assumed name or d/b/a, the licensee shall register that name with OBRE, pursuant to Section 1440.200 of this Part;

2) the licensee's license number, as assigned by OBRE;
 3) the name of the city, village or town, and state, in which the licensee or the licensee's business is located;

4) the licensee's telephone number; and
 5) shall clearly disclose the terms and conditions of the auction, as to the best knowledge of the licensee at the time of printing, taping or production of such advertisement.

b) A licensee under this Act shall clearly announce before the auction the terms and conditions of said auction, and shall disclose any differences in the terms and conditions of the auction from any previous advertisement for such auction.

c) If a licensee under this Act conducts an auction or provides an auction service, in which a buyer premium is charged or collected, the licensee shall:

1) clearly disclose on any advertisement, that there is a buyer premium charged and the terms of the buyer premium;

2) clearly post at the auction site, that there is a buyer premium charged and the terms of the buyer premium; and

3) clearly announce during the terms and conditions of the auction, that there is a buyer premium charged and the terms of the buyer premium.

Section 1440.240 Unlicensed Assistants EMERGENCY

a) An unlicensed assistant shall include, but not be limited to clerks, cashiers, clerical assistants, ring assistants and laborers.
 b) An unlicensed assistant may:

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- 1) prepare, track and document information during the course of an auction, such as a description of the property being sold or leased, the buyer of said property, and the price bid and accepted on said property;
 - 2) collect, accept, record and deposit monies received from the sale or lease of property at an auction;
 - 3) prepare, track, compute and document information from the sale or lease of property at an auction on forms (e.g., settlement sheets), and disburse funds to sellers under the supervision of the sponsoring and/or managing auctioneer;
 - 4) secure and assemble documents and information for an auction contract and complete contract forms at the direction of, and under the supervision of, the sponsoring and/or managing auctioneer;
 - 5) draft and distribute advertising copy, fliers and promotional materials for an auction at the direction of, and under the supervision of, the sponsoring and/or managing broker;
 - 6) perform bookkeeping activities;
 - 7) monitor licenses and personnel files of licensed and unlicensed employees and agents;
 - 8) acknowledge a bid from a member of the audience during the sale or lease of property at an auction and convey such bid to the auctioneer, but only the auctioneer may accept such bid for the sale or lease of property at an auction; and
 - 9) move, handle and set up property to be sold or leased at auction at the direction of, and under the supervision of, the sponsoring and/or managing auctioneer.
- c) An unlicensed assistant may not perform any activity other than those described in subsection (b) of this Section for which a license is required under the Act.

Section 1440.250 Felony Convictions; Discipline of Other Professional License; Notification
EMERGENCY

- a) A licensee who has a license issued pursuant to the Act or this Part shall notify OBRE in writing within 30 days from the date of conviction for any crime pursuant to Section 20-15(3) of the Act. In addition to such notice, said licensee shall provide to OBRE the court record and documents involved with such conviction or other information as required by OBRE to determine fitness for licensure.
- b) A licensee who has had another license disciplined pursuant to Section 20-15(4) shall notify OBRE in writing within 30 days after any adverse final order. In addition to such notice, said licensee shall provide to OBRE the record and/or documents involved with such disciplinary action or other information as required by OBRE to determine fitness for licensure.

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Section 1440.260 Advertising; Auction without Reserve; Absolute Auction
EMERGENCY

An auctioneer, associate auctioneer or auction firm shall not advertise or announce an auction as an "absolute auction" or "auction without reserve" or words with a similar meaning unless:

- a) there are no liens or encumbrances on the property to be sold other than current tax obligations, easements, or restrictions of record to any person other than the seller, unless every holder of each lien or encumbrance provides the auctioneer written evidence of a binding commitment that such liens or encumbrances shall be released immediately after the sale or at closing, without regard to the amount of the highest bid on such property or the identity of the high bidder; and
- b) within the auction contract there is a binding written requirement that the seller, or agent of the seller, shall accept the highest bid, and transfer ownership of the property, without regard to the amount of the highest bid or the identity of the high bidder, and that the seller, or agent of the seller, shall not bid at the "absolute auction" or "auction without reserve", or otherwise participate in the bidding process.

Section 1440.270 Escrow or Trust Accounts
EMERGENCY

- a) For the purposes of the Act and this Part "escrow monies" means all monies, promissory note, legal tender or financial consideration entrusted to, held by and deposited with, an auctioneer, associate auctioneer or auction firm in consideration of property sold or leased by the auctioneer, associate auctioneer or auction firm for the benefit of the parties to the transaction.
- b) Pursuant to Section 20-15 of the Act, licensees who accept escrow monies shall maintain and deposit in a special account, separate and apart from any personal or ordinary business accounts, all monies entrusted to the licensee while acting as an auctioneer, while conducting an auction or providing an auction service.
- c) A licensee may maintain more than one special account, or may elect to hold all escrow monies in one special account. A licensee who accepts escrow monies shall maintain a special account, and shall maintain a bookkeeping system in his or her office or place of business in accordance with generally accepted accounting principles, including systems of electronic data processing, and such system shall consist of the following:
 - 1) A record book, called a journal, for each special account, that shall show the chronological sequence in which escrow monies were received and disbursed by the licensee and a running balance after each entry;
 - 2) For each auction, a deal file which contains clerk sheets and

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- settlement sheets that correspond to journal entries;
- 3) A record, account ledger (e.g., check ledger), that shall show the date, amount of monies deposited into the special account, and date, amount and payee of any money disbursed from the special account; and
 - 4) Bank statements for each special account shall be reconciled monthly within 10 days after the receipt of the bank statement, except where there has been no transactional activity during the previous month. Such reconciliation shall include a written work sheet comparing the balances as shown on the bank statement, the journal and the ledger, respectively, in order to insure agreement between the special account and the journal and the ledger entries with respect to such special account. Each such reconciliation shall be kept for at least three years from the last day of the month covered by such reconciliation.
 - d) A licensee who maintains any special account shall notify in writing to OBRE the name and location of the depository in which such special accounts are held, and shall execute a written consent to OBRE the authority to examine and/or audit any or all such special accounts.
 - e) OBRE shall make available for distribution, on request, samples of approved bookkeeping systems.
 - f) A licensee shall not commingle any monies held for another in connection with the practice of auctioneering, conducting an auction, or providing an auction service with any personal account or normal business account. A licensee shall only deposit his or her own funds into such special accounts in which escrow monies are held to open such account or maintain a sufficient balance to avoid incurring service charges. In addition, a licensee shall not disburse monies from any special account for his own personal or business use, except for commissions, compensation, fees, advertising or other expenses incurred by the licensee pursuant to the terms of the auction listing contract.
 - g) A licensee shall deposit all escrow monies into the licensee's special account no later than the next business day following acceptance of said monies.

Section 1440.280 Termination for Failure to Pay Taxes, Child Support or Student Loan
EMERGENCY

- a) If OBRE receives information that a licensee who has been issued a license under the Act has failed to pay or is more than 30 days in arrearage on taxes, court ordered child support or a student loan pursuant to Section 20-20 of the Act, OBRE shall notify, by certified mail, return receipt requested, such licensee that his or her license will be automatically terminated in 30 days from the date of the notice, unless the appropriate administering agency provides to OBRE information and proof that the licensee has corrected such failure to

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- pay or arrearage.
- b) Such licensee may request a hearing on such termination, but the hearing shall be limited to the presentation of evidence on the issues of mistaken identity, proof that the respondent has entered into a payment plan or that the debt has been discharged in bankruptcy.
 - c) OBRE and the Board shall not hear evidence as to whether a licensee has failed to pay or is in arrearage on such payments. The responsibility for the hearing of evidence is with the appropriate administering agency.

STATE BOARD OF EDUCATION

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

1) Heading of the Part: School Construction Program

2) Code Citation: 23 Ill. Adm. Code 151

3) Register Citation to Notice of Proposed Rules:

23 Ill. Reg. _____; November 5, 1999

4) Date, Time and Location of Public Hearing:

- . November 9, 1999, 10 a.m. to 12 p.m., Rend Lake College Theater, 468 North Ken Gray Parkway, Ina, Illinois 62846
- . November 15, 1999, 10 a.m. to 12 p.m., Illinois State Board of Education, State Board Room, 4th Floor, 100 North First Street, Springfield, Illinois 62777-0001
- . November 16, 1999, 10 a.m. to 12 p.m., DuPage Center, Regional Office of Education Library, 2nd Floor, 421 North County Farm Road, Wheaton, Illinois 60187

5) Other Pertinent Information: The amendments are being proposed in response to P.A. 91-38, effective June 15, 1999, which amends the School Construction Law. The new provisions establish the school maintenance project grant program and require that the State Board promulgate rules to implement the program. Public school districts, public university laboratory schools approved by the State Board, and charter schools are eligible to apply for school maintenance project grants.

The proposed amendments define the five priority categories established in the law; set forth the application procedures and content; and establish a mechanism, based on the priority categories and applicant's need, for awarding grants when the appropriation is insufficient to fund all approved applications.

This rulemaking also proposes to eliminate the requirements pertaining to debt service grants, since the law prohibits the award of such grants after June 30, 1999.

Persons giving testimony are asked to provide a written copy of their comments to the State Board of Education staff at the time of testimony. Written comments should be limited to five pages. Oral testimony will be limited to five minutes.

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

1) Heading of the Part: Pharmacy Practice Act of 1987

2) Code Citation: 68 Ill. Adm. Code 1330

3) Register Citation to Notice of Proposed Amendments: 23 Ill. Reg. 12344; October 8, 1999

4) Date, Time and Location of Public Hearings:

Tuesday, November 9, 1999, 9:30 A.M.
Department of Professional Regulation
James R. Thompson Center, 9th Floor, Room 9-172
100 West Randolph
Chicago, Illinois 60601

5) Other Pertinent Information:

Each person presenting oral testimony shall provide a written copy of such testimony at the time the oral testimony is presented.

Each person presenting oral testimony will be allowed 10 minutes for the presentation.

Those individuals who are unable to attend the public hearing but wish to comment on the Proposed Amendments should submit written comments by November 22, 1999, to:

Jean A. Courtney
Department of Professional Regulation
320 West Washington, 3rd Floor
Springfield, IL 62786

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

Heading of the Part: Low-Income Housing Tax Credit AllocationCode Citation: 47 Ill Adm Code 350Section Numbers: 350.101 350.102 350.104 350.201
350.202 350.203 350.204 350.205
350.206 350.207 350.208 350.209
350.210 350.211 350.212 350.213
350.214 350.215Date Originally Published in the Illinois Register: 7/16/99
23 Ill Reg 7826

At its meeting on October 19, 1999, the Joint Committee on Administrative Rules objected to the above cited rulemaking because the Authority is eliminating specific information from the rules that sets out the Authority's standards for allocating housing tax credit dollars to eligible applicants. The Authority planned to rely on its State Allocation Plan, a document maintained outside of rules that sets out program policy, application and review procedures, and required fees.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

STATE UNIVERSITIES RETIREMENT SYSTEM

Heading of the Part: Universities RetirementCode Citation: 80 Ill Adm Code 1600Section Numbers: 1600.120Date Originally Published in the Illinois Register: 7/23/99
23 Ill Reg 8348

At its meeting on October 19, 1999, JCAR recommended that, if the State Universities Retirement System determines that increased salary because of a change in position should be excluded in determining whether an increase meets the 20% threshold described in Section 15-112(d) of the Illinois Pension Code [40 ILCS 5/15-112(d)], the System seek an amendment to that statute authorizing the exception.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 19, 1999 through October 25, 1999 and have been scheduled for review by the Committee at its November 16, 1999 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
12/3/99	Department of Public Aid, Child Support Enforcement (89 Ill Adm Code 160)	12/4/98 22 Ill Reg 20755	11/16/99
12/3/99	Department of Insurance, Accelerated Life Benefit/Terminal Illness/Qualified Conditions (50 Ill Adm Code 1407)	4/9/99 23 Ill Reg 4156	11/16/99
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